Constitution, By-Laws, Roll of Members and Proceedings of the

Kentucky State Bar Association

At its Organization Meeting held in Louisville, Kentucky, November the Nineteenth, Nineteen Hundred and One

Together with a Resume of the History of the First State Bar Association, 1881-1924. And Facts leading up to the formation of the present Kentucky State Bar Association, prepared by Edward J. McDermott at the request of the Association

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For account of 1st meeting of the
"The Kentucky State Bar Asso-
ciation" see page 28
(Organization)

1907

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Published June, 1910

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INTRODUCTION

FIRST EFFORTS TO ORGANIZE BAR OF KENTUCKY.

It is probable that the first general meeting ever held of the lawyers of Kentucky to give their united support to a proposed legal reform was that which was held in Louisville shortly after the Civil War to bring about such a change in the law of the State as to make negroes competent witnesses in all cases in the courts.

The Revised Statutes of Kentucky (Chapter 107, Section 1, page 470) provided:

"That a slave, negro or Indian, shall be a competent witness in a case of the Commonwealth for or against a slave, negro or Indian, or in civil cases to which only negroes or Indians are parties, but in no other case."

This was the law before the Civil War and when the Thirteenth Amendment to the Constitution of the United States became effective in 1865. The Civil Rights Bill was soon thereafter passed by the Thirty-seventh Congress to give negroes "the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and *give evidence,* inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white persons."

In the case of Bowlin vs. Commonwealth, 2 Bush, 5 (June 5th, 1867), the Court of Appeals held that a negro in Kentucky could not testify against Bowlin, a white man, who

had been indicted for grand larceny, and that the Civil Rights Bill was not intended to give the negro such a right in the State courts, and that, if so intended, it was unconstitutional. Judge Robertson wrote the opinion of the court, but Judge Williams wrote a long concurring opinion.

After this opinion was rendered and before the session of the General Assembly that began on December 4, 1871, a banquet in Louisville was arranged by the lawyers of the State to create a public sentiment in favor of such a change in our Statutes as would enable negroes to testify, both for their own protection and for the protection of the white people as well. The banquet was held in a hall on the north side of Market street, between Sixth and Seventh streets. Senator Stevenson, Isaac Caldwell, General Humphrey Marshall, General Eli Murray and other distinguished men of the State, many of whom had been in the Confederate Army, were present. The speaking was fine; the jollity and the champagne were super-abundant. These lawyers had in mind, not only the serious purpose mentioned above but also the public and private advantage to be gained by more friendly intercourse between all the members of the profession in the State. General Humphrey Marshall, huge in size and big in brain, was one of the noteworthy speakers; and, in his deep, powerful voice said:

"The purpose of this meeting, gentlemen, is to bring the Court of Appeals into harmony with the law of the land."

One of the earliest and most honorable efforts that Mr. Henry Watterson made to put Kentucky in the right attitude after the war was his bold and brilliant advocacy of the negro's right to testify in the courts. The Thirteenth Amendment (1865), the Fourteenth Amendment (1868) and the Fifteenth Amendment (1870) were not ratified by

Kentucky. The Legislature met December 4, 1871. By an act, approved January 30, 1872, the General Assembly revised the Statutes governing "the laws of evidence in this Commonwealth." The seventh section of that act provided:

"No one shall be incompetent as a witness, because of his or her race or color."

Thus was removed another unreasonable barrier that helped to keep some light from the courts, though the courts need all the light they can get. Other barriers, maintained on plausible but unsound reasoning, still remain.

In 1877 the American Bar Association was established. Its organization gradually brought about the formation of many State associations. The desire for better standards of practice in the profession and for improvements in the principles and procedure of the common law encouraged the lawyers of the country to unite for the general good. In 1879, the Hon. Benjamin H. Bristow, a Kentuckian, who had been Secretary of the Treasury under Grant, and who had later moved to New York, was elected President of the American Bar Association. Mr. Bristow in his address at the third annual meeting of the Association at Saratoga Springs, August 18, 1880, reviewed the multitudinous acts of the Legislatures of the States during the preceding year and showed the evils of special legislation. He called attention to the important and somewhat radical revision of the New York Code of Civil Procedure and the opposition of the older lawyers to the changes made. He discussed "the railroad problem," then beginning to have great importance and to call for prompt attention; and he mentioned the fact that Georgia had then established a Railroad Commission, with large powers, for the investigation and regulation of railroad rates. He noted the beginnings of local-option legisla-

tion in Maryland and Virginia and the beginning of legislative efforts to establish a regular system for the reformation of criminals and the passage of acts in Iowa, Massachusetts and Wisconsin "for the diminution of the terms of imprisonment of convicts in cases of good behavior." From this address we learn how some of the burning questions of to-day were being considered at that time.

In 1881, Col. George Baber, of Louisville, established the Kentucky Law Journal, a monthly to which the best lawyers of the State contributed articles, and which was a help to the profession for several years. Such a journal gave the bar a voice and a chance to promote needed reforms. Without such a journal, lawyers that are not willing to mingle in the strife of politics have no effectual means of advocating or pressing remedial statutes or of criticising, in an unselfish and becoming manner, the decisions and tendencies of the bench or the omissions and errors of the Legislature. Efficient relief can not be found in the regular press. Law journals published outside the State can not help much in the discussion of our own Statutes, decisions and local needs. In January, 1882, Col. Baber suggested that Kentucky should follow the example of Tennessee and immediately establish a State Bar Association. In February the suggestion was renewed. In the March number the need and advantages of such a society were admirably set out in an editorial, and on another page appeared a formal call for a preliminary meeting of the State Bar on Wednesday, April 5, 1882, in the Louisville Chancery Court Room. It was signed by 161 lawyers of the State and included the names of John G. Carlisle, William Lindsay, Alvin Duvall, William Preston, Isaac Caldwell, W. C. P. Breckinridge and Joshua F. Bullitt, and many other honored names.

As the editorial referred to well states the advantages,

pleasures and limitations of such an organization, it is worth publication here:

"Lawyers are the most social of men, and no class enjoy themselves, when together, as they do. And yet, although Kentucky is full of bright minds and ' good fellows,' although every country bar has in it choice and original spirits engaged in the congenial profession of the law, and to know whom would widen the horizon of us all, we have gone on, for generation after generation, scattered, isolated, often full of petty local prejudices, without devising any plan of getting together and becoming the friends that we should be.

"The members of the bar in other States have not been so negligent or unsocial. For years, there have been flourishing State Bar Associations in New York, Illinois, Missouri, Indiana, and in other States, including even sparsely-settled Nebraska; and since 1878, there has been a splendid and growing National Bar Association, which meets each summer at Saratoga, composed of members from all the States, and gathering at its meetings more distinguished men than can be found together at any other place in America.

"The purpose of these State Bar Associations is not any great crusade or reformation, nor any tedious course of labor or instruction. It is true that, at all their meetings, learned addresses are made and instructive papers read by appointed members; but the chief purpose is to bring the lawyers together, to make them acquainted with each other, to remove local prejudices, to form friendships and connections, to let them unbend and spend a day and a night, or so, in right good fellowship.

"Where would this be more acceptable, or do more good, than in Kentucky? Let any lawyer think of how limited is his acquaintanceship, what a stranger he is even to his own

profession in his own State, and how few of the leading men in the more than one hundred county bars of this State he knows, and he will be prepared to appreciate what he has lost, and what he may gain by the organization of a State Bar Association in Kentucky.

"A bright address or two, half a dozen carefully prepared papers on live subjects, interesting and general discussions, by lawyers from all parts of the State, of current legal topics and reforms, will certainly do good, once a year; while a reasonably fine dinner, with speaking, 'on toast,' or 'dry so,' would surely make a bright day in a prosy life to look back at and forward to. Nothing too heavy, nothing too ambitious, is desirable; but only an attractive, pleasant gathering of those who would like to see and know. And the warming up at a good dinner, kept within bounds of dignity and refinement, and yet with its 'feast of reason and flow of soul,' will make us all feel nearer to each other, and add a needed pleasure to our busy lives.

"The meeting of the Association might be held at one fixed convenient place, each year, as the National Bar Association meets annually at Saratoga, or the Association might meet at Louisville one year, and the next at Lexington, Frankfort, Covington, Paducah, Maysville, Bowling Green, Hopkinsville, etc., etc., or at some pleasant watering-place like Grayson or Crab Orchard Springs. The time might be fixed in the summer holidays, or during the Christmas week. The cost will be but little, say about five dollars per year to each member. The National Bar Association, with its three days' meeting and grand dinner, at Saratoga, has always a full treasury at a cost of only $5.00 per year for membership and $5.00 payable at time of initiating the member; and that includes elegantly-printed copies of the proceedings, addresses, papers, etc., to the members for preservation. Surely no one would begrudge that small indulgence to

himself once a year to enable him to meet and form friendships with the best minds all over the State, and to participate in those proceedings so peculiarly pleasant to lawyers—good speaking and instructive discussions, with bright minds and good friends."

Later, in the Louisville Commercial, of which Col. R. M. Kelly was editor, appeared the following strong editorial:

"All other craftsmen have associations for social and business purposes, and in New York and other States, there are Bar Associations which help keep alive the *esprit de corps* of the fraternity, and stimulate the younger members to a proper pride in their calling. For merely social reasons, the proposed association should be warmly encouraged. Lawyers need these friendly reunions. They are constantly engged in fierce conflicts in the courtroom, and it is a sanitary measure to meet together, where the spicy story, sparkling epigram, and good-natured banter shall promote a feeling of fellowship, and assuage the bitterness which grow out of hotly-contested battles in the forum. In such meetings, the mere lawyer will learn that his profession is a liberal one, and will be tempted to add to his knowledge of blackletter lore, the graces and embellishments of literature, and the ease which is acquired by intercourse with society. Such men as Sergeant Noon, Talfourd, Erskine, Curran, Choate, Wirt, Pinckney, Webster, Prentiss, Corwin, Rowan, Marshall were not mere dry encyclopedias of legal learning; they had wit, taste, and general scholarship. The bar should encourage the wildest and most elegant range of accomplishments. De Tocqueville said, the true aristocracy of the United States was the bar. If the proposition has lost any of its force, it is due to the growing carelessness of lawyers about the standing of their own profession, and the greed

for mere fees, which distinguishes this money-making age. A splendid State Bar Association will afford the cure for this unworthy sloth and heedlessness."

On April 5, 1882, a large number of lawyers from all parts of the State met in the Chancery Court room in Louisville, and ex-Chancellor Horatio W. Bruce, learned, high-minded and popular, and then Chief Counsel of the Louisville & Nashville Railroad, called the meeting to order. Ex-Governor James B. McCreary was elected Chairman and Col. George Baber was elected Secretary. Later in the day the following officers were selected for the first regular meeting, which was fixed for June 22, 1882:

President—B. F. Buckner.

Vice-Presidents—William Preston, Lexington; John W. Stevenson, Covington; C. F. Burnam, Richmond; James Speed, Louisville; Isaac Caldwell, Louisville; John G. Carlisle, Covington; John Feland, Hopkinsville.

Secretary—George Baber, Louisville.

Treasurer—James A. Beattie, Louisville.

Executive Committee—Thomas W. Bullitt, A. E. Richards, A. P. Humphrey, George M. Davie and J. D. Reed, of Louisville; W. O. Bradley, of Lancaster; Henry Burnett, of Paducah.

First Annual Meeting, 1882.

On Thursday, June 22, 1882, the Hon. James B. McCreary called the meeting to order in the Council Chamber of the city of Louisville and gracefully introduced the President, Judge B. F. Buckner, of Lexington, who delivered a carefully prepared and vigorous address on the private and public services and the true ideals of lawyers and on needed

legal reforms. The President recommended that, in a jury case, as in England and in the Federal Courts, we should "return to the system of a charge by the judge, at the conclusion of the argument;" that the jury should only decide the question of guilt, leaving to the court the right to fix the penalty; that, in murder cases, the jury or the judge should have the right to decide whether the punishment should be death or life imprisonment; that records should be printed so that all the judges of the Court of Appeals could read them simultaneously, or that the labors of the judges should be so lessened that each would have time to read the one written record in order that a case should not be decided practically on the reading and summary of one judge.

John Mason Brown, a scholarly, able and successful lawyer, read an interesting paper on "The Old and New Courts of Kentucky," a sketch of the furious and famous controversy that deeply agitated the State from 1820 to 1826. The Legislature, on account of the hard times, passed, in December, 1820, a "Relief Law," which stayed executions for two years unless creditors accepted payment in depreciated State bank-notes. The Old Court (Boyle, Owsley and Mills), held the act an impairment of contracts and unconstitutional. The Legislature created a New Court (Barry, Haggin, Trimble and Davidge) to uphold the act. At last the old court won the fight.

Speeches were made by Messrs. C. B. Seymour, John Feland, J. C. Poston, William Lindsay, Frank Hagan and B. F. Buckner on the question, "Should we Plead to an Issue?" On Friday, June 23d, Mr. Wilbur F. Browder read a paper on "The Competency of Witnesses." Mr. Browder recommended that most of the exclusions of witnesses provided for in section 606 of the Civil Code be abolished and that the jury or judge should be trusted to give proper weight to the

testimony of witnesses who appear against infants, insane or deceased persons, etc., and who should be received with caution but who should not be excluded altogether. Mr. William Chenault read a paper on "Implied Malice," which was much discussed by others familiar with the criminal law. Mr. Ira Julian, read a paper on "Sales of Land for Taxes." The Executive Committee offered for discussion the question, "What is the Most Just and Effective Mode of Regulating Railroads by Law?" The subject was ably discussed by Messrs. George M. Davie, H. W. Bruce, Andy Barnett and St. John Boyle. Mr. John Feland read an instructive and humorous paper on "Statutory Deformities and Legal Formalities."

At this time there were 196 members on the roll of the Association. The most eminent lawyers of the State were present. The Association appointed a committee to consider, and, at the next meeting, to make a report on, the reforms suggested in the President's address and in Mr. Browder's address on Evidence; and also appointed a committee to propose, at the next meeting, some reform in the standard of legal education required for admission to the bar.

The Association then elected the following officers:

President—John W. Barr, of Louisville.

First Vice-President—Joseph D. Hunt, of Lexington.

Second Vice-President—Wilbur F. Browder, of Russellville.

Secretary—George Baber

Treasurer—James A. Beattie.

Executive Committee—Thomas W. Bullitt, of Louisville; John Bennett, of Richmond, and James C. Poston, of Elizabethtown.

At the banquet at the Galt House Gen. Basil W. Duke was toastmaster. Speeches were made by Messrs. J. B. McCreary, Gen. William Preston, Isaac Caldwell, Curtis F. Burnham, William Lindsay, Andy Barnett, George Baber, Thomas L. Jones, Asher G. Caruth, Alpheus Baker and J. C. Beckham.

About the time of this meeting (June 22, 1882), Democratic conventions were held in Hopkinsville, Danville and Lexington to nominate three judges for the new Superior Court. Messrs. James H. Bowden, A. E. Richards and Richard Reid were nominated. They were elected in August and the court was organized in September, 1882. The New Constitution, which went into effect September 28, 1891, finally eliminated the Superior Court by providing only for a Court of Appeals of seven judges; but the Superior Court did not cease to exist until January 1, 1895.

Second Annual Meeting, 1883.

On Thursday, June 28, 1883, the Kentucky Bar Association met for a second annual session in the Chamber of the Common Council at Louisville, Ky. The President, Judge John W. Barr, delivered the opening address. He called attention to the general dissatisfaction with jury trials and stated that the first consideration was to secure honest, impartial and intelligent jurors; that bystanders should not be selected because they were too often chosen by a sheriff or deputy sheriff on personal or political grounds; that bystanders, not usually the best class of citizens, often had a bias in favor of one side or the other in a criminal prosecution or civil suit, especially in cases attracting much attention; that no bystander had been summoned in the Federal Court in Louisville for three years, and that no trial had been delayed by reason thereof; that the increased expense

was too slight to be an objection; that good citizens ought to be compelled to serve on a jury as a matter of duty and to have an opportunity of learning law and patriotism at the same time; that the accused and the Commonwealth were not equal enough as to peremptory challenges; that the sympathy of jurors was generally with the accused, not with the Commonwealth; that the State should have as many peremptory challenges as the accused; that the selection of regular jurors should not be confined narrowly to the place where an alleged criminal offense was committed or where the litigants in a civil suit resided and where prejudices for one side or the other were most likely to exist.

Mr. Williams Reinecke, as Chairman of the Special Committee consisting of Mr. A. P. Humphrey, of Louisville, and Mr. J. D. Hunt, of Lexington, read a long and scholarly report on the "Codification of the Law." The report approved our Codes of Practice and favored a general system of codification of the law.

Mr. George M. Davie read a paper on "Suing the State." He pointed out the evils of the corrupting lobby, which usually secures the passage of special acts in Congress or the Legislature, and advocated the transfer of such controversies from the secret lobby to the open courts, saying that such a remedy "will take away from the Legislature the most distracting, absorbing and contaminating influence with which it is now beset and will enable it to turn its whole attention to the more appropriate and seemly duty of pure legislation."

Mr. Thomas W. Bullitt, of Louisville, read a valuable paper in which he advocated the printing of the records of the Court of Appeals. After a discussion by Mr. C. B. Seymour, of Louisville, and Mr. John Feland, of Hopkinsville, a resolution was adopted for the appointment of a committee of five members to draft a bill providing for the printing of

records in the Court of Appeals and in the Superior Court. Mr. James Speed, of Louisville, Attorney-General of the United States under Lincoln, read a report of a committee in favor of "Pleading to an Issue." Mr. C. B. Seymour and Judge Buckner, of Lexington, opposed the system of pleading to an issue. Judge Joshua F. Bullitt, of Louisville, a learned and accurate lawyer, spoke in favor of pleading to an issue. Mr. Rozel Weissinger, Mr. James P. Helm, and Mr. E. F. Trabue took part in the discussion and the Association by a vote decided in favor of pleading to an issue. On Friday, June 29th, Mr. Isaac Caldwell, of Louisville, a giant at the bar, delivered a long and vigorous address, which was a defense of the existing mode of trial by jury and which was indirectly a reply to the address of Judge Buckner of the preceding year.

The proper method of calling a constitutional convention to amend the Constitution of Kentucky was debated earnestly by Mr. G. G. Gilbert, of Taylorsville, Mr. Head, of Shelbyville, Mr. Temple Bodley, Mr. James P. Helm, Mr. James Speed and Mr. C. B. Seymour, of Louisville; and a resolution offered by Mr. Helm, as amended by Mr. Bowden, was passed to express the opinion of the members in favor of a new Constitution and the appointment of a committee of five to report upon the matter at the next annual meeting. Mr. Henry Burnett, of Paducah, read a paper on "The Rights, Duties and Liabilities of the Holder of Bills and Notes as Collateral Security." A report of a Committee on Proposed Reforms of Jury Trials was read and adopted, but the question whether the judge should be allowed to charge the jury on the evidence after the arguments of counsel was passed for consideration to the next meeting.

The next question offered by the Executive Committee for discussion was this: "Should there be a Registration Law for Voters in the State of Kentucky?" Mr. Edward J. Mc-

Dermott and Judge W. O. Harris, of Louisville, advocated such a registration of voters, showing that such a law did not add anything to the qualifications of voters; that the courts of other States had so held; that the first step in the reform of elections was to prevent, as far as possible, the voting of persons not qualified to vote under the law. A resolution approving such a law was adopted.

The next matter discussed was the report of the Special Committee consisting of Messrs. George M. Davie and St. John Boyle, of Louisville, and John Bennett, of Richmond, on the question, "Whether railroads can be regulated by law; and if so, what is the most just and effective method to so regulate them?" Mr. Davie read a long and carefully prepared report which affirmed that the Legislature could regulate railroads in the absence of any controlling contract with the State. It was stated that the ordinary courts were not well fitted to regulate railroads; that a railroad commission with the power to investigate, prosecute and decide upon such matters would be unsatisfactory; that for the time being there was not sufficient railroad business in Kentucky to justify the formation of a railway court, but that such a court would be ultimately needed; and that, in the meantime, "The ordinary courts of the State and Nation must remain the best available and practical resort for prevention against, or indemnity for, railway abuses."

On motion of Judge B. F. Buckner, to give time for full consideration, the further discussion of this matter was adjourned to the next meeting.

The following officers were elected for the next year:

President—Curtis F. Burnam, of Richmond.
First Vice-President—Laban T. Moore, of Catlettsburg.
Second Vice-President—Henry C. Burnett, of Paducah.
Secretary—Horace C. Brannin.

Treasurer—James A. Beattie.

Executive Committee, in addition to *ex-officio* members—W. O. Dodd and John Mason Brown, of Louisville; and J. C. Beckham, of Shelbyville.

At the banquet at the Galt House on Friday, June 29, 1883, Gen. William Preston was toastmaster. The following toasts were responded to by the following persons:

The Kentucky Bar Association, Our Two-Year Old: Judge P. B. Muir.

His Honor, the Learned Judge: Col. W. C. P. Breckinridge.

The Average Kentucky Lawyer: John W. Finnell, of Covington.

The Kentucky Lawyer at Large: R. C. Wintersmith, of Washington.

The Intelligent Jury: E. E. McKay, Bardstown.

Practicing Law under the Old Constitution: W. R. Kinney.

The Real Trouble Between the Plaintiff and the Defendant: Albert S. Willis.

Law, the "Sawder" of Society: A. E. Willson.

The Nature and Uses of the Fee: Geo. G. Gilbert.

How to Explain to Your Client Why You Lost His Case: Byron Bacon.

What Will Probably Become of the Lawyer: Theodore Hallam.

Midnight Meditations: Basil W. Duke.

The speech of Mr. Byron Bacon (now deceased) was then greatly applauded and has ever since been admired as a model banquet speech. It has been frequently printed by the law journals in other States. He was not only a learned lawyer but a cultured man and a great wit. His speech deserves publication here:

"How to Explain to Your Client Why You Lost His Case."

[The following response at the Kentucky Bar Dinner in 1883 to the toast, "How to Explain to Your Client Why You Lost His Case," has been extensively circulated in periodicals; but to facilitate compliance with the frequent application of professional brethren for copies, I have put it in this form. BYRON BACON.]

Louisville, Ky., Jan., 1893.

I deprecate the thought that I respond because, from a more extended experience than my legal brethren, I bring to the solution of this question the exhaustive learning and skill of the specialist. The characteristic modesty of our profession forbids that I should arrogate to myself to instruct the eminent lawyers around me, wherein they doubtless have attained that perfection which only long practice can give.

I assume, therefore, that the subject was proposed for the edification of novitiates—those "young gentlemen" to whom Blackstone so often and so feeling alludes, who after a long and laborious course of study, have been found, upon an examination by the sages of the law, not to have "fought a duel with deadly weapons since the adoption of the present Constitution," and have been admitted to our ranks.* To them, then, I shall offer briefly some suggestions upon this point, hoping that they may not find them of practical value upon the termination of their first case.

*Before admission to the practice of law in Kentucky, the applicant is required by the Constitution of that State to make oath that he, being a citizen thereof, has not fought a duel with deadly weapons with another citizen of the State.

The question, as framed, is not unlike that with which Charles II. long puzzled the Royal Society. He demanded the cause of certain phenomena, the existence of which he falsely assumed. The answer was simply the denial of the existence of the phenomena. What lawyer ever attempted to explain the loss of the case upon the hypothesis that he had lost it? That a lawyer can not lose a case is as well established a maxim as that "the king can do no wrong," or, that "the tenant can not deny his landlord's title." Eliminate this error and our question is of easy solution.

Coke tells us that law is the "perfection of human reason;" Burke, that it is "the pride of the human intellect;" "the collected reason of ages, combining the principles of eternal justice with the infinite variety of human concerns;" "the most excellent, yea, the exactest of the sciences;" and the eloquent Hooker, that "her seat is the bosom of God, her voice the harmony of the spheres; all things in Heaven and on Earth do her homage—the least as feeling her care, the greatest as not exempt from her power." But we know that, if it be the purest of reason, the exactest of the sciences, its administration is not always intrusted to the severest of logicians or the exactest of scientists. We know that the great, the crowning glory of "our noble English common law" is its uncertainty, and therein lies the emolument and pleasureable excitement of its practice.

If, oblivious of this, you shall have assured your client of success in the simplest case, the hour of his disappointment will be that of your tribulation, and professional experience can extend to you no solace or aid.

But your client's cause has resulted unfavorably. You, of course, are never to blame; the fault is that of the judge, the jury, or your client himself, and it may be of all three. It becomes your duty to divert the tide of his wrath into those channels where it can do the least possible harm. If he

be a crank and shoots the judge or cripples a juror, they fall as blessed martyrs, and their places and their mantles are easily filled; but not so readily your place or your mantle. As one of America's sweetest poets, Mr. G..... M. D.....,* has expressed it in a touching tribute to our professional and social worth, unequaled for delicacy of sentiment, boldness of imagery, and beauty of diction in the whole range of English poetry:

> "Judges and juries may flourish or may fade,
> A vote can make them as a vote has made;
> But the bold barrister, a country's pride,
> When once destroyed can never be supplied."‡

The selection then of a target for your client (I use the word "target" metaphorically) must rest upon the peculiar facts and circumstances of the case and the "sound discretion," as the venerated Story has it, of the counsel. But avoid, if possible, imputing the blame to your client, for although this has been attended with very happy results, yet his mood at such times is apt to be homicidal, and, moreover, you should bear in mind that there your aim is to conciliate.

"Who wrote that note?" demanded an Indiana lawyer who, under the old system of procedure, had declared in covenant as on a writing obligatory, and gone out of court on a variance.

"I got Squire Brown to write it," answered his sorely-perplexed and discomfited client.

"I thought so," sneered the learned counsel. "Didn't you know that no d— magistrate could write a promissory note that would fit a declaration?"

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*A member of the Kentucky bar, who, unlike Sir William Blackstone, did not forsake the muses when he espoused the profession of which he is a distinguished ornament.

‡A passage in The Deserted Village forcibly reminds us of these lines, yet we should be slow to charge the author of the Vicar of Wakefield with plagiarism.

First, as to the jury. Upon this head I need not enlarge, only remind you that you are not held by the profession as committed or estopped by any eulogium, however glowing, which you may have pronounced during the progress of the trial on their intelligence or integrity. It is only in the capacity of a scape-goat that the American juror attains the full measure of his utility, and as such he will ever be regarded by our profession with gratitude not unmingled with affection.

But it is to the judge that we turn in this extremity with unwavering confidence. The serenity and grandmotherly benignity enthroned upon his visage is to the layman that placidity of surface which indicates fathomless depths of legal lore; to the lawyer it bespeaks the phlegmatic temperament of one whose mission is to bear unmurmuringly the burdens of others.

It comes upon you like a revelation, that your weeks of study, your elaborate preparation, your voluminous brief, are all for naught that the impetuous torrent of your eloquence has dashed itself against his skull, only to envelope it in fog and mist, and more "in sorrow than in anger" you confess that the presumption that every man knows the law can not be indulged in his favor. Even your luminous exposition has failed to enlighten him.

You need not spare him. He thrives on abuse. Year in and year out he bears the anathemas of disappointed lawyers and litigants with the stolid indifference of Sancho Panza's ass in the valley of the pack-staves, or beneath the missiles of the galley-slaves, and society comes finally to regard him pretty much as did Sancho his ass. It berates him, overtasks him, half starves him, and loves him.

But seriously considered, our question is only a long-standing and harmless jest of the bar, meaningless in actual practice.

The lawyer is untiring in his client's behalf, and the client knows, be the result what it may, that he has had the full measure of his lawyer's industry, zeal, and ability, and requires no explanation.

Lord Erskine said, that in his maiden speech "he felt his children tugging at his gown and heard them cry, 'Now, father, is the time for bread.'" The British bar applauded the sentiment. The American lawyer throughout the case feels his client tugging at his gown, and if unsuccessful is sustained by the consciousness that he has done his whole duty as God has given him to see and perform it; and, should he want further consolation, he can open that eldest of all the books of the law and there read these words which may soothe his wounded spirit, and possibly best answer the question of to-night:

"I returned and saw under the sun that the race is not to the swift, nor the battle to the strong, neither yet bread to the wise, nor yet riches to men of understanding, nor yet favor to men of skill, but time and chance happeneth to them all."

Third Annual Meeting, 1884.

On Thursday, June 26, 1884, the third annual meeting of the Kentucky Bar Association was held in the Council Chamber of the city of Louisville. President Curtis F. Burnam, of Richmond, opened the meeting with a thoughtful address. He spoke of the exaggerated estimate which lawyers sometimes place on their position and on the good influence exercised by their profession; but he, nevertheless, set out the just claims of lawyers to general gratitude for invaluable public work in all free countries. He said that the profession was becoming overcrowded with unfit men; that a broad and thorough education and legal learning were

essential to success; that a new Constitution ought to be adopted; that we were irrevocably committed to the bad system of electing judges by popular vote; that, if elected, they ought to be elected for long terms; that by reason of the Civil War and other unfortunate circumstances, crime, especially murder, had, in late years, greatly increased in the State; that, however, the fundamental principles and procedure of the criminal law were, on the whole, satisfactory, though some changes were desirable.

On motion of Mr. William Reinecke, of Louisville, a resolution was adopted for the appointment of a committee of five lawyers to prepare, for the General Assembly, a bill to establish "a commission to codify the body of the existing law" of Kentucky; and this motion was advocated by Mr. H. C. Brannin and Mr. C. B. Seymour, of Louisville, and by Mr. J. W. Head, of Shelbyville.

Mr. C. S. Grubbs, of Louisville, then read a useful paper on "Warehouse Receipts."

Mr. Emmett Field, later the judge of the Common Pleas Court, and much beloved, but now deceased, read a report of the Committee on Legal Education and Admission to the Bar. This report set out that the standards of legal education had declined in Kentucky and that the opinions of the Court of Appeals did not rank with those of an earlier date; that there was not enough study of the fundamental principles of the law; that too much attention was paid to the mere reading and citation of cases; that enough time was not given to the systematic, scientific study of the law; that the standard of admission should be raised; that the study of law in schools was better than its study in a lawyer's office; that the bar had not been jealous enough of its reputation nor careful enough of its interests, but had suffered greatly by allowing incompetent men to gain admittance to its ranks. The report was approved by the Association.

On Friday, June 27, 1884, Mr. H. L. Stone, of Mt. Sterling, read a thoughtful, valuable and vigorous paper on Municipal Government. He called attention to the haphazard way in which municipal charters were granted, and showed how later, at the request of selfish persons, without notice to the people or without their approval, politicians made sad havoc of even the best charters and passed much ill-advised special legislation. He showed that a good part of the enormous debts of the cities was due to this bad system; that much extravagance and fraud grew out of such unskillful or reckless or selfish tinkering with city charters and cunningly devised special acts. He said: "The Legislature, at its next session, ought to pass a general law on the subject of municipal corporations. It should provide for the classification of our towns and cities; for their advancement to higher classes and reduction to lower ones when the increase or decrease of population demands it. Let the towns and cities in the State be goverened by certain general rules and laws applicable to all alike." He said, that, if this plan were followed, the cities and towns in the State would watch legislation and that the decisions of the courts in one case would be a safe guide thereafter.

Mr. Rozel Weissinger then read a learned and entertaining paper on "The Ex-Parte Injunction Under the Kentucky Code."

Mr. Temple Bodley read an interesting and strong paper on "The Lawfulness of Revising the Constitution by a Sovereignty Convention," in which he maintained that the Kentucky Constitution could be amended only in the manner prescribed in its twelfth article and that a Sovereignty Convention would be unconstitutional and revolutionary and that there was no need for so extreme a step. This subject was debated by Mr. Feland, of Hopkinsville and Messrs. James P. Helm, Charles B. Seymour, George M. Davie, Laf

Joseph and L. N. Dembitz, of Louisville, and Mr. Enoch McKay, of Bardstown. On motion of Mr. Joseph, the opinion was expressed that the Constitution should be amended pursuant to its own provisions.

The following officers were elected for the next year:

President—William Lindsay, of Frankfort.
First Vice-President—John W. Finnell, of Covington.
Second Vice-President—R. P. Jacobs, of Danville.
Secretary—Horace C. Brannin.
Treasurer—James A. Beattie.
Executive Committee, in addition to ex-officio members—W. O. Harris and Thomas Speed, of Louisville; and D. H. French, of Lagrange.

The report of the Treasurer showed that though there were on the roll about 232 members, only 84 had paid their dues for this meeting. Thereupon, there was considerable discussion as to the advisability of having a meeting during the following year. Crab Orchard Springs was selected as the place of the meeting, but the time of the meeting was left to the Executive Committee. No meeting was held thereafter.

At the banquet at the Galt House on Friday, June 27, 1884, Judge P. B. Muir, of Louisville, was the toastmaster. Speeches were made by Judge W. F. Bullock, of Louisville; Mr. John Feland, of Hopkinsville; Mr. James H. Mulligan, of Lexington; Mr. Asher G. Caruth, of Louisville; Mr. Q. Q. Quigley, Mr. E. E. McKay, of Bardstown; Mr. Sterling B. Toney, of Louisville; and Mr. George M. Davie, of Louisville.

This valuable Association, though it clearly had an influence in shaping subsequent legislation, was unfortunately allowed to die. The ablest members of the bar, engrossed with private business or with other public work, allowed

their interest to wane and so the State and the profession lost the benefit of their united action on the side of reform and progress.

Organization of Present State Bar Association.

The Kentucky State Bar Association owes its revival to the efforts of members of the Kenton County Bar Association and the Louisville Bar Association.

On January 13, 1900, a large number of the lawyers of Louisville met together in the Chancery Court room of Louisville. Mr. E. J. McDermott called the meeting to order and stated that the purpose of the meeting was to organize a Louisville Bar Association. James S. Pirtle was then elected Chairman and was finally elected President of the Association. Alex. P. Humphrey was elected First Vice-President; Thomas W. Bullitt, Second Vice-President; Upton W. Muir, Treasurer; and Bernard Flexner, Secretary. The following persons were appointed a committee to prepare and did prepare the Constitution and By-laws of the Association; Edward J. McDermott, Edmund F. Trabue, John B. Baskin, Walter P. Lincoln and Upton W. Muir.

At a banquet of the lawyers of Kenton County on February 9, 1901, in honor of the centenary of the induction of John Marshall into the office of Chief Justic of the United States Supreme Court, Charles H. Fisk was toastmaster; and, at the close of the banquet, a resolution was adopted that those present resolve themselves into a Bar Association and that Mr. Fisk be elected temporary Chairman and that a committee be appointed to draft the Constitution and By-Laws. On February 16, 1901, the Association was organized and S. D. Rouse was elected President and C. A. J. Walker was elected Secretary.

On June 1, 1901, a semi-annual meeting of this Association was held at Heidelberg near Newport. At the supper W. H. Mackoy spoke in favor of a State Bar Association and a motion to promote that movement was unanimously carried. On July 25, 1901, W. H. Mackoy, Sidney Arthur and C. A. J. Walker were appointed a committee to take all necessary steps to organize a State Association. On July 26, 1901, Mr. Mackoy wrote to Mr. McDermott of Louisville: "I should like to have your opinion in regard to the possibility of organizing a State Bar Association, after you have consulted with some of the members of your bar." Mr. McDermott took up the work in Louisville at once. He and Mr. Mackoy wrote to the prominent lawyers in all parts of the State and received such favorable responses that the time seemed favorable for the movement. On August 11, 1901, Mr. McDermott suggested that a call be issued to the bar of the State to attend a meeting in the fall. This call was then prepared by Mr. Mackoy and Mr. McDermott, and it was approved by the Kenton County Bar Association on September 12, 1901, and the following committee was appointed to sign a call for that Association: W. H. Mackoy, Chairman; C. A. J. Walker, W. A. Byrne, J. G. Tomlin, R. H. Gray, Sidney Arthur, J. W. Bryan, S. A. Rouse, R. C. Simmons, W. McD. Shaw and Walker C. Hall.

On October 21, 1901, the Louisville Bar Association passed a resolution that it approve of a State Bar Association and would give its cordial assistance. The President, C. B. Seymour, appointed Edward J. McDermott a committee of one to co-operate with the committee of the Kenton County Bar Association and with prominent lawyers in other parts of the State.

On October 25, 1901, a call was signed and issued. It was sent with a letter to lawyers in every Circuit Court District in the State. This call read as follows:

To the Bar of Kentucky:

The undersigned members of the bar deem it important to organize a vigorous bar association in this State.

Such associations exist in a flourishing condition in the most prosperous and cultivated States of the Union, and have been instrumental in procuring useful and important legislation, and in promoting reforms in the practice of the law, in the procedure of the courts and in the administration of justice generally.

The necessity for such an organization in Kentucky and the benefits that will accrue from it, if well sustained, are evident to all thoughtful lawyers who have given consideration to the matter.

The prestige and influence of the bar have declined absolutely and relatively; there is no bond of union between the lawyers of the State, and no mode, at the present time, by which they can be brought together to discuss the evils which exist and to suggest appropriate remedies for their correction.

Pride in the profession of the law, as a learned profession, apart from its pecuniary rewards, should be stimulated; the ethical standards of the bar, as well as the standard for admission to membership, should be elevated, and to accomplish these purposes a State Bar Association is the most efficient instrument.

With these objects in view, a preliminary meeting for the organization of a State Bar Association, for the adoption of a constitution and the election of officers to serve until the first regular election, will be held in the Courthouse in Louisville, November 19, 1901, at 3 o'clock. To this meeting all lawyers throughout the State are invited.

As the success of the State Bar Association will largely depend on the formation of vigorous local bar associations,

we suggest that a bar association be organized in the Circuit Court Districts. Where necessary or convenient two circuits might be combined. We hope that the lawyers to whom this circular may come will take the trouble to call a meeting of the lawyers in their neighborhood and start the matter in motion. If no association be formed in their neighborhood, we ask them to come in person to the meeting on November 19th.

Edward J. McDermott, Committee of Louisville Bar Association.

W. H. Mackoy, Chairman; C. A. J. Walker, W. A. Byrne, J. G. Tomlin, R. H. Gray, Sidney Arthur, J. W. Bryan, S. A. Rouse, R. C. Simmons, W. McD. Shaw, Walker C. Hall, a Committee of the Covington Bar Association.

R. P. Jacobs, Danville.

Emmett M. Dickson, Paris.

R. A. Thornton, Lexington.

L. T. Applegate, Falmouth.

W. H. Wadsworth, Maysville.

John Hager, Ashland.

Chapeze Wathen, Owensboro.

C. U. McElroy, Bowling Green.

The attendance at the meetings, which were held in the Joint-session Room in the Courthouse Annex, was much larger than was expected, the State being even better represented than the city. The following lawyers were among the visitors present: R. J. Bugg, Carlisle; Malcolm Yeaman, Henderson; Gen. D. W. Lindsay, Frankfort; D. L. Thornton, Versailles; Will M. Scott, Shelbyville; Chapeze Wathen, Owensboro; W. O. Davis, Versailles; Richard W. Miller, Richmond; Thomas D. Theobold, Grayson; W. McD. Shaw, Covington; R. C. Simmons, Covington; Col. Robert A. Thornton, Lexington; John Galvin, Covington; William A.

Byrne, Covington; Jas. Montgomery, Elizabethtown; Samuel M. Wilson, Lexington; R. S. Holmes, Covington, Jerre A. Sullivan, Richmond; S. D. Rouse, Covington; M. L. Harbesen, Covington; Richard H. Gray, Covington; Charles J. Helm, Samuel C. Bailey, Newport; Jas. W. Bryan, Covington; Emmet M. Dickson, Paris; Buckner Clay, Bourbon; John T. Hodge, Campbell county; W. H. Mackoy, Covington; Thomas R. Brown, Catlettsburg; John D. Carroll, Newcastle; H. B. Mackoy, Covington; W. A. Price, Covington; J. P. O'Meara, Elizabethtown; Frank M. Tracy, Covington; George H. Ahlering, Newport; H. A. Watkins, Hart county; George Washington, Newport; J. C. Litchfield, Leitchfield; J. R. Sampson, Middlesboro; L. C. Willis, Shelby county; W. J. Macey, Henry Cowle, Munfordville; R. W. Nelson, Newport.

The Constitution and By-laws were prepared by Mr. W. H. Mackoy and the Hon. James W. Bryan, of Covington.

WORK FOR THE FUTURE.

The first Kentucky State Bar Association lived only three years. So soon did the good purposes of its founders cease to appeal to the better judgment and the pride of the profession. In the succeeding seventeen years the bar here evidently needed such an auxiliary as this Association. The physicians and surgeons did much in those years to elevate the standard of learning and skill in their calling and to keep pace with other intellectual callings. To become a doctor in Kentucky, it is now necessary to start with a fairly good general education and to study medicine at a thorough college four years; but a so-called lawyer, after private, desultory reading during one-fourth of that time, may be admitted to the bar to compete with, and to impair the standing of, his associates, while overcrowding a profession already too full of ill-prepared men and in which so many, with vain hopes

and false pride, are drifting into "shabby gentility"—into what the Germans call "ein glaenzendes Elend," a glittering misery. It is no wonder, therefore, that legal reforms make such slow progress and that so many of the bar believe that a lawyer should be allowed to use the methods, and solicit business in the manner, employed by men in the humblest trades, although we still talk of the law as "a learned profession." States all around us are setting us a good example in efforts to reform legal procedure and to keep the legal profession in the front rank of intellectual pursuits.

The present Bar Association has now existed nine years. It has done some good. It could do far more, if it had the hearty help of the lawyers and the bench in all parts of the State. That it has not accomplished all that was desired or expected is true, but here is the machinery for fine work and lasting good to the profession and the Commonwealth. The radical and successful reforms in pleading, practice and appeals in England and the prompt and satisfactory administration of the criminal law there show how urgent is the call upon us to arouse public sentiment, to devise the remedies, to press them through the Legislature and to uphold them in the courts.

It is a great work. It should be broad in scope and thorough. To carry it out successfully would require, not mere tinkering here and there by novices, but systematic study and comprehensive treatment by able men with power to free themselves from the trammels of past technical training. If the task could be as well done here, as it has been done of late in England, all nice, fine-spun quibbles in pleading and practice would be brushed aside and scant attention and no sympathy would be given to mere errors in procedure, which would be made simple, speedy and cheap; and no new trials or reversals would be granted except where the verdict or judgment was against the party that, according to the very right of the matter on the merits, ought to win.

If such reforms could be carried out in only a moderate degree, Justice would no longer appear, sometimes as a cross-eyed hag of mean temper and at other times as a seductive coquette, keeping "the word of promise to our ear and breaking it to our hope," but as a true divinity, clear-eyed and wise, giving her judgment only in favor of the right, in spite of brilliant tactics or technical slips of lawyers.

EDWARD J. MCDERMOTT.

Louisville, June 16, 1910.

OFFICERS

OF THE

Kentucky State Bar Association.

1901-1902.

PRESIDENT

W. H. MACKOY ..... Covington

VICE-PRESIDENTS

JAMES CAMPBELL ..... Paducah
J. S. WORTHAM ..... Leitchfield
I. W. TWYMAN ..... Hodgenville
E. J. McDERMOTT ..... Louisville
D. L. THORNTON ..... Versailles
JAMES C. WRIGHT ..... Newport
THOMAS BROWN ..... Catlettsburg

TREASURER

T. KENNEDY HELM, Louisville Trust Building ..... Louisville

SECRETARY

BERNARD FLEXNER, Kentucky Title Building ..... Louisville

STANDING COMMITTEES

EXECUTIVE COMMITTEE

C. J. HELM ..... Newport
R. S. HOLMES ..... Covington
GEORGE WASHINGTON ..... Newport
R. A. THORNTON ..... Lexington
F. W. MORANCY ..... Louisville

AND THE PRESIDENT, TREASURER AND SECRETARY, EX-OFFICIO

COMMITTEE ON LAW REFORM

W. O. HARRIS, Chairman, Louisville

JOHN D. CARROLL ..... New Castle
J. A. SULLIVAN ..... Richmond
LOUIS McQUOWN ..... Bowling Green
MALCOLM YEAMAN ..... Henderson
EMMET M. DICKSON ..... Paris
M. L. HARBESON ..... Covington

COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

HELM BRUCE, Chairman, Louisville

E. S. JOUETT.....Winchester
W. O. DAVIS.....Versailles
JOHN L. DODD.....Louisville
FRANK M. TRACY.....Covington
JOHN B. BASKIN.....Louisville
J. P. O'MEARA.....Elizabethtown

COMMITTEE ON MEMBERSHIP

JAMES QUARLES, Chairman, Louisville

JOHN M. GALLOWAY.....Bowling Green
J. R. SAMPSON.....Middlesboro
GEN. D. W. LINDSEY.....Frankfort
THOMAS D. THEOBALD.....Grayson
BUCKNER CLAY.....Paris
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SAMUEL M. WILSON, Chairman, Lexington

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RICHARD W. MILLER.....Richmond
W. M. REED.....Paducah
FIELD McLEOD.....Versailles
FRANK STRAUS.....Louisville
L. C. WILLIS.....Shelbyville

COMMITTEE ON NECROLOGY

C. B. SEYMOUR, Chairman, Louisville

C. U. McELROY.....Bowling Green
BERNARD FLEXNER.....Louisville

PROCEEDINGS.

ORGANIZATION MEETING
1901.

Pursuant to call, various lawyers from different parts of Kentucky assembled in the Joint Session Hall of the Louisville Courthouse on November 19, 1901. The meeting was called to order by Mr. E. J. McDermott, of Louisville, as follows:

In behalf of The Louisville Bar Association, gentlemen, I welcome you. This association and the Covington Bar Association have called this meeting in the hope that a useful and permanent State association may be established. We have not forgotten the wrecks of the past. We do not deceive ourselves with Utopian dreams of future power and glory. We know the difficulties, but we feel that we can accomplish at least a little in a field wherein the lawyers of other States have done much. What Ohio, Indiana, Illinois, New York and the other States have done we can do. We are behind them in some things, but we are not by nature incompetent to deal with the organization of the bar and the reform of palpable evils in the administration of justice. In some of the best States such associations have flourished for twenty years and have brought about practical reforms. If we can exist for five years, we shall greatly benefit the State and our profession.

We certainly need to take counsel together. The status of the bench and bar can not be regarded as gratifying by any thoughtful lawyer among us. In the first place, the method of examining and admitting lawyers to the bar is absurd. Six months' study of the code and statutes and a few elementary books will admit anybody into our ranks.

It takes more time than that to become a carpenter or a plumber. The doctors of our State by their organization have made it now almost impossible for a quack to degrade their profession by humbugging the public. The law was once thought to be a learned profession. Can it be so considered here now? How can we make any advance in our efforts to give efficiency and dignity to our calling unless we guard its entrance against ignorance? Instead of allowing every Circuit Judge in the State to appoint examiners to go through the farce of asking applicants the A, B, C's of the law, we should have a State examining Commission of good lawyers, selected by the Court of Appeals or a State Bar Association, with power to prescribe tests suitable to show that every applicant has a reasonably thorough knowledge of the law and a good character.

In the second place, we should see to it that, after fit men are admitted to the bar, they shall conduct themselves as honest and reputable and self-respecting men should. If we do not, by joint effort, make it unsafe to do dishonest or discreditable things, unbecoming a gentleman, we can not hope that there will be any high standard of ethics at the bar. We certainly can not expect the judges or private individuals to do this disagreeable but necessary task for us.

In the third place, many reforms are needed in the Code are admitted to the bar, they shall conduct themselves as changes must be made by the Legislature, and if we could speak in behalf of the bar and bench of the whole State, our recommendations would, no doubt, be carefully considered and probably be carried out. One of the deputy clerks here tells me that three-fourths of all the cases tried by juries in his court are damage suits, and many of them, of course, are petty and purely speculative; and yet they crowd the docket and postpone other cases. Litigation of other kinds has probably decreased on account of the expense and delay of

suits. We must find some means of making litigation cheaper and speedier. Poor people are often excluded from the higher courts by the costs; and yet justice, on easy terms, should be open to all. At the present time, immense records, costing hundreds, even thousands, of dollars, are sent to the Court of Appeals, when the questions involved are few and simple. We often do not dare to use selected parts of the record, for fear that the Court of Appeals will affirm the case without consideration, merely because it is subsequently thought that some paper below, omitted by oversight, should have been copied. There is no reason why we should not be able safely and cheaply to send a small record to that court for consideration, if that record will show all that is really necessary for the decision of the case. That system would spare the money of litigants and the time of the court. Even now, in spite of the court's best efforts, it is behind in its docket; and yet litigants ought to have quick decisions, and in some States do get their relief in one-third the time required here.

The Legislature is about to meet. Whatever we want must be presented at once; and surely we ought to be able to do something to elevate the bar and to help the bench and to benefit the people. The main business of the State is to preserve order and to administer justice; and yet that function of our government is not performed as it should be. If we do our duty we can surely bring about long-needed reforms and win the thanks of the public, while giving power and dignity to our calling. Most of the laws of our country are made, interpreted and administered by lawyers; that is our pride and boast; and, as we have the power, we must be responsible for its execution. Now that our Legislature is limited to a session of sixty days, and legislation must be discussed and perfected in advance, or be passed without sufficient consideration, it is all the more important that we,

in advance, should give what help we can to improve the laws governing the administration of justice by the courts. If a litigant can not be heard quickly and at little cost, and if crimes are not surely and promptly punished, we must share much of the blame, and we ought to see to it that justice shall be administered in this State as cheaply, as unerringly and as speedily as in any State of the Union, or in any country on the globe.

In conclusion I wish to ask you for nominations for Temporary Chairman.

JUDGE PIRTLE: I move that Judge Warren E. Settle, of Bowling Green, be made Temporary Chairman of this meeting.

The nomination being seconded and a vote being taken, was unanimously concurred in, and Judge Settle took the chair.

THE TEMPORARY CHAIRMAN: *Gentlemen of the State Bar Association*—To say that I am astonished at my selection to this position would but feebly express my surprise. I thank you for the exceedingly great compliment you have done me in making me Temporary Chairman of this meeting, for I regard it as a great compliment indeed to preside over a body of able lawyers such as I find before me to-day.

I am in full accord with the aims and purposes of the State Bar Association, or of the Association which is to be formed by the lawyers of the State. I can present no better evidence of this fact than to inform you that although my own court at home is in session, I left it to-day for the purpose of coming up here to be present at this meeting. There is no question that an association of this kind can be made to result in incalculable good to the lawyers of the State, as well as to the people of the State generally. If it accom-

plishes no other purpose, it will be well worth maintaining because of the opportunity it will afford the members of our profession throughout the State to meet for social intercourse and mutual improvement.

But there are other ways in which an association of this sort can accomplish great good, as has been intimated by the gentleman who called this meeting to order. The members of our profession all over the State know full well that there are enrolled in its membership some who are unworthy of a place in its ranks, not so much because of their ignorance of the law as of their want of moral character.

It occurs to me that one of the greatest purposes for which this organization should be maintained is to adopt such measures as will restrain known or suspected persons of that character from doing acts which are unprofessional.

In my judgment one of the first and most important steps will be the adoption of measures that will secure an elevation of the standard of admission to the bar in the State. Lawyers are necessary leaders of thought and of men. It has always been so the world over. It must continue so, because in point of education and intelligence they are fitted for leadership. It is their business to familiarize themselves with the formation of government, with the relation of government to the governed and the relation of the laws to each other. They, more than any other class, must directly participate in administering the law, and they are therefore more nearly concerned in all that affects the maintenance of public order and public weal. There is no question in my mind but that concert of action on the part of the members of the bar of the State of Kentucky can bring about any needed reform. I, therefore, think it is important that we should form ourselves into such an association as is contemplated by this meeting, in order that we might take such steps to correct the abuses that exist in our State, and

bring about those legal and judicial reforms that are necessary for the good of our people and for the good of our own profession.

Without extending my remarks, I again thank you for the compliment you have done me, and we will now proceed to such business as may be suggested.

Mr. J. P. Helm: I move that E. L. McDonald, of this city, be made temporary Secretary.

This motion was seconded and carried.

MR. MACKOY: The next step is the appointment of a Committee on Constitution and By-laws, and I move the appointment of such committee.

THE TEMPORARY CHAIRMAN: Do I hear a second to that motion?

MR. JAMES P. HELM: I second it.

THE TEMPORARY CHAIRMAN: How shall that committee be appointed?

MR. MACKOY: By the Chair.

THE TEMPORARY CHAIRMAN: You have heard the motion. Are there any remarks?

No remarks being offered, and a vote being taken, the motion was carried.

MR. MCDERMOTT: While the Chairman is naming his committee I have some letters and a telegram that I will read:

They were as follows:

MT. STERLING, KY., Nov. 19, 1901.

President of Louisville Bar Association, Louisville, Ky.:

The Mt. Sterling Bar this morning adopted resolutions concurring in the Bar Association movement and will organize local branch. A. A. HAZELRIG.

GREENVILLE, KY., Nov. 19, 1901.

E. J. McDermott, Sec. Kentucky Bar Asso., Louisville, Ky.:

Regret can't be at meeting; present my name for membership. JEP C. JOHNSON.

FALMOUTH, KY., Nov. 18, 1901.

Hon. E. J. McDermott:

DEAR FRIEND—I had thought I would be present at the meeting to-morrow for the forming of a State Bar Association, but I find I can not come. I am anxious that such an association will be formed. I will do anything in the future in my power to help in the matter. I have not had time to see the lawyers of this district yet, but will make an effort to form a district association. You may count me in on whatever is done. Yours truly,

LESLIE T. APPLEGATE.

THE TEMPORARY CHAIRMAN: I appoint as members of the committee provided for:

W. H. Mackoy, of Covington, Chairman; James S. Pirtle, of Louisville; Frank P. Straus, of Louisville; John M. Galloway, of Bowling Green, and Jerry Sullivan, of Richmond.

MR. JAMES MONTGOMERY: It seems to me that it would be proper to have an enrollment of those who wish to become members of the Association, so as to know who can vote.

THE TEMPORARY CHAIRMAN: I presume that is eminently proper. How can that be taken?

MR. MONTGOMERY: We might call the counties.

THE TEMPORARY CHAIRMAN: That is all right, if any gentleman will kindly furnish a list of the counties, but otherwise some of them would be overlooked.

MR. MCDERMOTT: If all the gentlemen will give their names to the Secretary, it will save time. Besides, we do not know, until the committee reports what formalities will be necessary.

THE TEMPORARY CHAIRMAN: I think that is a good suggestion.

MR. MCDERMOTT: While we are waiting, I would like to submit a letter from Judge DuRelle of the Court of Appeals.

The letter was read as follows:

FRANKFORT, KY., November 18, 1901.

Hon. E. J. McDermott, Committeeman of Louisville Bar Association, Louisville, Ky.:

MY DEAR SIR—I regret exceedingly that the condition of the docket is such that I shall not probably be able to attend the meeting next Tuesday for the purpose of forming a State Bar Association. The purpose of the meeting has my heartiest approval and sympathy. It is a matter in which we are far behind most of our sister States.

If a State Bar Association can be established, it can effect great good in bringing to the consideration of the General Assembly well-considered and carefully and accurately prepared bills. The Association should, in my judgment, give especial consideration to obtaining a uniform system of examination of applicants for admission to the bar, and to the simplification of records in cases brought to the Court of Appeals, by securing legislative authority for the selection and printing of those parts of the record which are necessary to the decision of the appeal, and the exclusion of the "rubbish" which, under the present system, is necessary to be examined. The adoption of such a system as to records would greatly cheapen the cost of appeals and would prevent

an enormous waste of time which is unavoidable under the present system.

It may be that the recommendations of the Association will not be adopted in their entirety by the Legislature, but I have no doubt that at least substantial progress can be made in the right direction.

Very sincerly yours,

GEORGE DURELLE.

MR. SEYMOUR: I desire to turn over to the Secretary the resolutions of the Calloway Bar Association.

The resolutions were read as follows:

At a meeting of the members of the Murray Bar of Murray, Calloway County, Ky., this day held at the court house in said city, with Judge Thomas P. Cook, Judge L. C. Linn, Judge W. F. Peterson, Hon. A. D. Thompson, Hon. R. T. Wells, Conn Linn, J. H. Coleman, Will Linn, Charles Jetton, John R. Schroader, G. C. Dingnid, N. B. Barnett and Ed. P. Phillips, all members of said bar being present.

The meeting was called to order by Judge Thomas P. Cook, who briefly stated the object of the meeting, whereupon motion, Judge Thomas P. Cook was made Chairman and Conn Linn was elected Secretary.

Then, on motion, Judge L. C. Linn, W. F. Peterson and J. R. Schroader were appointed a Committee on Resolutions, and retired and returned the following resolutions, which were unanimously adopted and ordered sent to the Louisville Bar Association, viz.:

"Be it resolved by the Murray Bar Association, now in convention assembled, That we heartily endorse the effort of Hon. Charles B. Seymour and other members of the Louisville bar in their efforts to organize a State Bar Association,

and hereby pledge ourselves to aid and assist in such efforts, and sincerely believe that such an association would greatly benefit our profession in this State.

"L. C. LINN,
"W. F. PETERSON,
"J. R. SCHROADER,
Committee."

The foregoing are the minutes and resolution adopted by the Murray Bar Association at Murray, Ky., this November 18, 1901.

THOMAS P. COOK, *Chairman.*
CONN LINN, *Secretary.*

THE TEMPORARY CHAIRMAN: I suppose the mere reading of documents of this kind is sufficient.

MR. MCDERMOTT: Some of the gentlemen who have had this meeting in charge requested Mr. T. Kennedy Helm to read a paper on the experience of other State Bar Associations, and while we are waiting on that committee I move that he be requested to read his paper.

THE TEMPORARY CHAIRMAN: I suppose it is not necessary to put that motion formally. Let the gentleman come around, and we shall be glad to hear him.

Mr. Helm was introduced and addressed the meeting as follows:

Gentlemen of the Bar of Kentucky:

I esteem it an honor to be requested to address you upon this occasion.

The subject assigned to me is, "The Procedure and Achievements of the Bar Associations of other States."

Were I not addressing men accustomed to rely more upon precedents than personal experience, I should certainly feel as Elihu did when he interposed in the discussion of the counsellors of Job and said: "I am young and you are *very old.*"

At the outset I feel compelled to comply with the request of the committee in charge of this meeting by reading to you a table of statistics showing the facts relating to the organization of other Bar Associations. I ask you, therefore, to bear with me while I give you these facts in a concentrated form.

FACTS IN ORGANIZATION OF OTHER ASSOCIATIONS.

States	Yrs. Est.	Annual Dues	Pay Sec'y	Time of Meeting	Place of Meeting	Association composed of	Int. taken by Judges
Alabama	22	$5 00	$300	Summer recess	Capitol	Individuals	Fair
Arkansas	....	2 00	No	May adjournment	Capitol or city	Individuals	.....
Colorado	5	5 00	Yes	July	Designated	Individuals	Yes
Georgia	18	5 00	200	July	Summer resort	Individuals	Good
Illinois	24	3 00	200	July	Designated	Individuals	Yes
Indiana	5	5 00	No	February	Designated	Individuals	....
Kansas	18	3 00	No	January	Capitol	Individuals	Yes
Louisiana	54	10 00	Yes	May	New Orleans	Individuals	Yes
Maine	10	1 00	100	February	Large Cities	Individuals	Yes
Maryland	7	3 00	200	June recess	Summer resort	Individuals and members local ass'n	Active
Michigan	13	1 00	No	May or June	Large cities	Individuals	Yes, Courts adjourn
Missouri	19	5 00	No	May or June	Large cities	Individuals	Yes
Nebraska	2	1 00	No	Jan'y Court Meeting	Capitol	Individuals	Yes
New Hampshire	10	2 00	.....	March	Capitol	Individuals	Yes
New York	25	5 00	900	January	Capitol	Individuals	Yes, hon'y
North Carolina	3	2 00	100	Summer vacation	Summer resort	Individuals	Yes, hon'y
North Dakota	2	5 00	100	June	Summer resort, was Cap'l	Individuals	Slight
Ohio	22	2 00	100	Midsummer	Summer resort	Individuals	Yes
Pennsylvania	6	5 00	No	June or July	Summer resort	Individuals	Yes, notable
Rhode Island	4	10 00	No	Mar., June, Sept., Dec.	Designated	Individuals	Fair
West Virginia	18	4 00	No	Midsummer	Designated	Individuals	Yes
Texas	20	2 50	120	July	Designated	Individuals	.....

There are nearly three hundred Bar Associations in the United States. Of the above list, seventeen have been organized more than five years.

DUES. Of the above, the dues of eight are $5, eleven less than $5, and two more than $5.

SECRETARY. Twelve pay their Secretary, nine do not; five pay $200 or over; seven pay between $100 and $200.

TIME OF MEETING. Thirteen meet soon after summer adjournment of court; five meet at the opening of court.

PLACE OF MEETING. Seven in State Capitol; eight at cities designated; six at summer resorts.

MEMBERSHIP. All composed of individuals. One, however, requires membership in local association, if one exists at residence. Two that formerly required membership in local associations abolished the requirement.

JUDGES. In seventeen States the judges take an active interest in the work, but generally can not hold office. In three the interest of the judges is lax.

I desire to state parenthetically that I have turned over to Mr. E. L. McDonald, Secretary of the Louisville Bar Association, the last annual reports of twenty-three different State associations, and that therein will be found the facts hereafter stated, and that these reports may be referred to by members of the Association and will be found useful on many matters that we may hereafter undertake.

The declared objects of the various Bar Associations differ but immaterially. In fact the purposes, as declared in the constitutions of a majority of them, are "to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold integrity, honor and courtesy in the legal profession, to encourage thorough legal education, and to cultivate cordial intercourse among the members of the bar."

In facing the present undertaking it is a matter of deep

interest to us to know by what methods and to what extent the Bar Associations of other States have succeeded. Their work to this end may be conveniently divided into three classes:

1. The securing of direct legislation and the adoption of rules for the purpose of elevating the standard for the admission of applicants to the bar.

2. The bringing to the attention of the Legislature for its revision the general laws of the State on a variety of subjects.

3. By securing an *esprit de corps* in the profession, resulting from the feeling that in union there is strength, as well as the opportunity for mutual benefit and enjoyment.

Rightly, the first concern of the Bar Associations is to elevate and uplift the standing of its members. "First cast out the beam out of thine own eye, and then shalt thou see clearly to cast out the mote out of thy brother's eye." That we may not be called hypocrites, let us, therefore, first think of our own weaknesses before those of our neighbors.

It is said an Indiana Judge advised a young lawyer that he must, "first, get on; second, get honor; third, get honest." The purpose of Bar Associations has been to change this order, and uphold it is the duty of the lawyer, first, to be honest; second, to get on; and third, fairly to get honor.

It was a fact in many States, as it is to-day in Kentucky, that it was easier for a man to be admitted to the bar and nominally become a lawyer than it was for him to become a physician, dentist, pharmacist or minister. It will not be claimed that this resulted from the law being the easiest of professions, or because it imposed the least responsibilities.

Therefore we find that the Bar Associations of Colorado, Florida, Georgia, Iowa, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Virginia, West Virginia and Wisconsin have

succeeded in getting either the Legislature by act, or the court of last resort by rule, to prescribe the qualifications and standard of examinations for admission to the bar.

Briefly, these requirements are that the applicant must have a general education at least equal to that required for graduation in a public high school, which must be evidenced by either a certificate of graduation of a high school or private academy of equivalent standing, or he must have a diploma or certificate showing he is a graduate or matriculate of a college or university, or in some States in the absence of any of these he must stand an academic examination which is prescribed.

Then a Standing Committee of State Bar Examiners—say, of nine members, of which three retire each year—is appointed by the court of last resort, and it is made the duty of this committee or a majority thereof to hold examinations at designated times and places upon prescribed branches of the law. The examinations are conducted in writing, and the answers must sustain an average grade of at least seventy-five per cent. These examination papers and the report of the committee are returned to the court and kept permanently on file. This examination need not be taken by applicants holding a diploma from a law school which has an approved standing.

In many States at least three years' study in the law is made compulsory. In 1897 a Committee of the American Bar Association after careful investigation recommended a request to all law colleges to maintain a three-years course of study. It is true the report was not adopted, but at Saratoga in 1900 the "Association of Law Schools of the Nation" determined after September, 1901, to require a previous academic examination, as described above, and a three-years course of study of the law. This subject should be of interest to us, because to-day in Kentucky no fixed

standard is required in the applicant for the bar, either as to his academic or legal education.

The second step towards the improvement of the bar is for the State Bar Associations to adopt a code of legal ethics. Such codes have been adopted by the Bar Associations, I believe, in Georgia, Maryland, Michigan, North Carolina, Rhode Island, and Virginia. In some States legal ethics are made a part of the course of study and are embraced in the examination of the applicant. These codes are usually simply the application of general principles to the particular circumstances that arise in the practice of law, the purpose being to impress upon the mind of the lawyer that he owes his first duty to the State or its courts as an officer thereof, and that there can be no obligation to his client which the law condemns or which has for its object an evasion or perversion of the law. The maxim is: Deal fairly and courteously with the bench and the bar.

In still another way the Bar Associations exercise an influence, and that is by appointing a standing committee on investigation and grievances, whose duty it is to be on the alert to discover and to vigorously prosecute unprofessional conduct or malpractice at the bar. The duties of this committee are not nominal, though its existence has a strong restraining influence, as an examination of the reports of the associations of other States will show. In Illinois, for instance, at the last meeting this committee reported it had effected during the year four disbarments and had four other cases under investigation.

The second office of the State Bar Association has been to effect reforms in the law. That great jurist, Lord Bacon, said: "Every man owes a duty to his profession," and Mr. Choate has humorously added that with respect to the law "every man in the community owes a duty to our profes-

sion." While we are pleased to think this is true, it is certain our profession owes a duty to every man in the community. We have all subscribed to an oath of office requiring us to "support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky," and to "faithfully execute to the best of our ability the office of attorney at law according to law."

To even enumerate the accomplishments of the Bar Associations of other States is impossible. However, the successes of some, in addition to those above referred to, may be of interest to us and show the power which they possess.

In Nebraska a commission was appointed for the relief of the Supreme Court, and from its being five years behind with its docket it can now practically decide cases as soon as argued. In Georgia the number of Supreme Court judges was increased. In North Carolina the number of inferior judicial districts was increased from twelve to sixteen. In Ohio additional courts have been created, and a new building and library costing $400,000 has been obtained from the legislature for the Supreme Court, and the salaries of its judges materially increased.

The reports of five States show that their respective Bar Associations are responsible for the adoption of laws tending to the establishment of that uniformity in the laws of several States which has been the cherished object for years of the American Bar Association.

Several State Bar Associations have secured measures for the improvement of the methods of selecting and securing the attendance of jurors.

In fourteen States the Codes of Practice have been revised and improved. In Illinois, after years of consideration and discussion, the State Bar Association has recom-

mended to the Legislature the abandonment of common-law procedure and the adoption of a Code of Practice.

In several States acts have been adopted at the instance of Bar Associations, and in Ohio and Georgia such are now under consideration, abolishing in civil cases the scintilla rule of evidence and authorizing the trial judge, if of the opinion a verdict in favor of the party having the burden should be set aside, to direct such verdict as the law and the evidence requires.

In four States the Bar Associations claim the credit for the establishment of the Torrens system of land registration.

I am informed by the last President of the Pennsylvania Bar Association that the last Legislature of that State passed without the change of a word eight or ten important bills which were recommended by that association.

I could enumerate many other reforms that have been accomplished, but must be content with saying that the power for good of Bar Associations seems almost unlimited; that there is no point from the details of procedure to the regulation of municipal and private corporations at which they have failed to meet success.

The third great consideration in the formation of a Bar Association is as to how interest and activity are to be maintained. The answer should not be difficult. A desire to be of use and benefit to our State and its citizens, and the feeling that this can best be accomplished by the lawyers acting as a body should be sufficient. If we stand united, the history of other Bar Associations shows all the possibilities I have suggested may be accomplished.

But beyond this, a Bar Association can undoubtedly do much indirectly for the improvement of the profession by the cultivation of a closer social relation among its members. Other associations make their annual banquets, at which the weightier discussions of the law are laid aside, the occasion

for much merriment and goodfellowship, which finds expression both in the prepared and impromptu after-dinner speeches.

Interest is maintained by the free and full discussion of the reforms to be undertaken, and by addresses and papers carefully prepared for the annual meetings, by members of the Association and illustrious visitors upon subjects of moment and interest to the bar.

And by honoring the worthy among the living, and the memory of our distinguished dead, we will keep ever before us the achievements and character of those who have been an adornment to our profession, and whose lives are worthy of our respect and emulation. We will honor our profession for the fruits it has borne.

THE TEMPORARY CHAIRMAN: Is there any action desired with reference to the paper that has been read?

MR. MCDERMOTT: Just let it be referred to the Secretary.

The Committee on Constitution and By-Laws here returned into the room, and the report was read by Mr. Mackoy as follows:

THE TEMPORARY CHAIRMAN: You have heard the report of the committee. Is it desired that it be taken up section by section? See page 96 for Constitution.

MR. PECKINPAUGH: I move that it be adopted as a whole.

MR. MONTGOMERY: I think it would be better if any member desires to have opportunity to amend any particular article, and then it can be voted on as a whole. I think Article 8 and possibly Article 15 need amendment. Article

15 relates to the payment of dues. You all look rather sleek, well-kept, and there is a vast responsibility on your part to those who keep you well-kept. And it is the duty you ought to perform here. Now we have I don't know how many lawyers in Kentucky. A good many more than we ought to have. You could do without me, for instance. I think we should come here to work, and I don't think we should have too much revenue. The danger of too much revenue is that we will spread too much. The desire is that we shall have every lawyer in the State of Kentucky belonging to the Association, and I believe the smaller the fee the better.

THE TEMPORARY CHAIRMAN: As there is nothing offered in the way of amendment, the question is on the adoption of the report as a whole.

A vote being taken, the report of the committee was adopted.

MR. MCDERMOTT: I move that the chair appoint a committee for nominating officers, and that they be requested to report at the evening meeting in this hall. I would suggest that the number be seven.

MR. THORNTON: I personally know that there are a number of gentlemen who are going away before to-night's meeting, and if we could possibly carry into execution the enrollment before they go away it would save a great deal of trouble hereafter.

THE TEMPORARY CHAIRMAN: That will not interfere with the appointment of the committee.

MR. THORNTON: I understood that the enrollment was to be postponed.

MR. MCDERMOTT: No; my motion was that the Committee on Nominations should report at the evening meeting.

MR. DIXON: I move as a substitute that the committee report at this meeting. A great many of the gentlemen are going away, and it seems to me they should have a voice in the selection of permanent officers.

A vote being taken, the substitute was adopted, and a further vote being taken, the motion as amended by the adoption of the substitute was carried.

MR. PIRTLE: I move that we now proceed with the enrollment, so that we will know who are eligible.

The enrollment was then proceeded with, and the following was the result: See pages 103-105 for list of members.

The Committee on Nominations was then appointed, as follows; one member from each Appellate Court District:

1. Malcolm Yeaman.
2. Chapeze Wathen.
3. J. P. O'Meara.
4. Alex. P. Humphrey.
5. John D. Carroll.
6. S. B. Rouse.
7. E. S. Jouett.

This committee, after quite a lengthy deliberation, reported as follows:

W. H. Mackoy, President, Covington.

Kennedy Helm, Treasurer, Louisville.

Bernard Flexner, Secretary, Louisville.

Vice-Presidents: James Campbell, Paducah; J. S. Wortham, Leitchfield; I. W. Twyman, Hodgenville; E. J.

McDermott, Louisville; D. L. Thornton, Versailles; James C. Wright, Newport; Thomas Brown, Catlettsburg.

MR. R. H. GRAY: I move that the report be received, adopted, and the officers elected as a whole.

The motion was seconded, and, the vote being taken, was carried. The newly-elected president was escorted to the chair and spoke as follows:

Gentlemen of the Kentucky State Bar Association: It is hardly necessary for me to say that I appreciate highly the honor you have conferred upon me. It is not necessary that I should say so in words, because it seems to me the position is one that requires that I should by my deeds hereafter as far as I can, endeavor to justify the choice you have made. At this hour of the evening I do not propose to detain you by any extended remarks. I think I can recommend myself to the Association as its presiding officer better by brevity than by a prolonged speech. It seemed to our local Bar Association at Covington that there should be a State Bar Association; that it was impossible for local Bar Associations having no connection with each other, nothing to bind them together, to fill the need that existed; that it was necessary that there should be a State Association, and I take it that because the local Bar Association at Covington was the one to take the initiative in this matter, although it has been nobly helped here at Louisville, especially by Mr. McDermott, yet I take it that the honor conferred upon me is intended rather as an honor to the Covington Bar Association than to me.

There was a necessity, as I have said, for the organization of this Association. It is necessary that the lawyers of the State of Kentucky should be brought together; that they should learn to know each other, and that they should be

brought in touch with one another, so that a spirit of comradery may be generated among them. There was a time in the history of Kentucky when the circuits were large and when lawyers traveled from circuit to circuit, and when the home-like country tavern was the Bar Association of Kentucky. And under that training and that intercourse among the members of the bar there was produced here in Kentucky as strong and capable a body of lawyers as could be found in any State in the Union.

The past history of the bar of Kentucky is one that reflects credit upon the State not only so far as the laws of the State are concerned, but so far as its political government is concerned, because lawyers were largely lawmakers. They made public opinion. They had not resigned or retired from the position which they seem now to have relinquished to some extent, but they stood in the front rank on all matters that pertained to the welfare of the State, and they made public sentiment.

Now, I do not think that here in Kentucky we occupy relatively quite as important a position as we once did. We are not united one with another. We are working separately and disjointedly. We have retired, I think, to some extent, from politics. You know it is an old maxim, *inter arma silent leges*, and I think possibly political life has grown too war-like for lawyers, and so we have retired to the quiet practice of law. But it is necessary that we should endeavor now to bring the bar up to the position it once occupied in the history of the State. We have the opportunity, and if we do not avail ourselves of it the fault will rest with ourselves rather than with anyone else, because I think the bar of Kentucky has as many able men in to-day as it ever had. Possibly because they are engaged in material pursuits, looking after private interests, they have neglected to some extent that more important matter, that matter which every edu-

cated body of men should look after and care for; they have failed to look after the growth and development of the State in some respects, and have failed to promote that public sentiment for good government that they should have done. But I trust that this Bar Association will be the commencement of a new era in the history of Kentucky, and that the lawyers of Kentucky, as they did in the earlier days, will be found taking an important part in everything that pertains to the good government and welfare of the State. I do not mean by that its material progress. I mean that as professional men, as men of education and learning, it is our duty to do that which we can in the State and in the community in which we live to develop the law, promote a respect for the law, to introduce proper practices in the profession of the law in all respects, so that we may again stand where we once did.

It is unnecessary at this time, after the remarks made by Mr. Helm, that I should outline in any respect what it is the duty of an Association of this kind to do. It would be anticipating the work of the committees who will lay out the matters that are to be looked after. It is important, in the first place, that we should not undertake to do too much; that we should concentrate our energies on the evils that immediately need correction; that we should not spread our energies over too large a surface, but devote ourselves to the great evils and endeavor to remedy them speedily; and if we go at it in a proper spirit, without envy or jealousy, we shall no doubt be able to correct many evils. I know the opinions and wishes of a body as large as this will receive respectful consideration from the governing bodies of this State.

I thank you again for the honor that has been conferred upon me, and shall endeavor, as best I can, to show my appreciation of it by a proper discharge of the duties which may be incumbent upon me.

There was no further business before the meeting, and on motion the Association adjourned until 7:30 P. M.

EVENING SESSION.

The Association met pursuant to adjournment and was called to order by the President.

THE PRESIDENT: We have still to elect five members of the committee that will have charge of the affairs of the Association together with the President, Secretary, and Treasurer. The first business will be the election of the five members of that committee.

Charles J. Helm, R. S. Holmes, George Washington, R. A. Thornton and F. W. Morancy were placed in nomination, and on motion of Mr. McDermott, the Secretary, cast one ballot for the gentlemen, and they were declared elected members of such committee.

THE PRESIDENT: As to the appointment of the committees that the President has to name, they are important, and I think it is proper that I should take some time before naming them. The newspapers will announce the committees.

The next business in order will be a paper by Mr. C. B. Seymour, of this city.

The paper was read as follows:

I have been requested to read a paper on the subject:

"How to Make Appeals Cheap, Easy and Available."

The importance of the subject will be readily appreciated. There is a great contrast in the matter of appellate practice, between the state of thing existing when I came to the bar, in 1868, and the state of things now existing. So far as delay is concerned, matters are radically different. It was no usual thing then for an appellant who was unwilling to supersede to replevy the execution which issued upon a judgment, the idea being that before the return day of an execution upon a replevin bond he might have a reversal. This seems to our younger practitioners almost incredible. A repleving bond runs only three months, and if you add four months for the lifetime of the two executions, the entire period covered is seven months. Nobody expects any such prompt decision of appeals nowadays. If an appeal is decided within eighteen months from the time at which it is prayed, we all think we have obtained quite a speedy decision. Is there a cure for this state of things?

So likewise as to the availability of appeals. Statutory changes have made access to the Court of Appeals much more difficult than it was thirty years ago. I remember a meeting of the bar of the State in 1871; at that meeting it was proposed to ask the Legislature to raise the limit of appeals from $50.00 to $100.00. Judge William S. Bodley, who sat beside me, said very earnestly: "No, no; that will cut out one-fourth of the State from an appeal." And he explained that in the mountain counties folks hardly ever trade for more than $50.00. Now the limit of appeals is $200.00 on judgments for recovery of money or personal property.

It seems to me that there should be a few statutory changes in reference to the Court of Appeals. And first as to the mode of praying an appeal. The present Code, sec-

tion 734, says: "The mode of bringing the judgment of an inferior court to the Court of Appeals for reversal or modification shall be by an appeal which shall be granted as a matter of right to a party or privy against a party or privy by the court rendering the judgment on motion made during the term at which it is rendered, or *thereafter* by the Clerk of the Court of Appeals," etc., section 734, Civil Code. The word "*thereafter*" in this sentence was not in section 876 of the previous Code. It was introduced at the time the Code was revised, and took effect January 1, 1877. Public attention does not seem to have been called to the change, but the change is a most important one, for it enables the Circuit Judge who has rendered a judgment to block all access to the Court of Appeals until after the end of the term of court by the simple expedient of refusing to grant an appeal. Plainly this ought not so to be. If the court rendering a judgment is unwilling to grant an appeal, the party entitled to the appeal should have the right at once to ask the appeal from the Clerk of the Court of Appeals, and should not be compelled to take the risk that the judgment will be enforced before the end of the term, when he is ready, able and willing to give a satisfactory supersedeas bond. It will be remembered by old practitioners that, in the contest between Smith and Cochran for the Commissionership of the Louisville Chancery Court, an appeal was refused by the Chancellor, and was granted with supersedeas by the Clerk of the Court of Appeals, and the judgment thereupon was reversed. During the sixty days which constitutes a term in Circuit Courts having continuous session, much can be done towards obtaining an enforcement of the judgment, and if that judgment be erroneous, serious injury may be done. It seems to me that the word "thereafter" should be struck out of this section, and that parties entitled to an appeal should be allowed to pray the same from the Clerk of

the Court of Appeals at any time before the right to appeal is barred by limitation.

An interesting illustration of the present condition of the law is found in an appeal recently decided by the Court of Appeals; though the appeal was prayed four years ago, and was decided more than a year ago, and though petition for a rehearing of the same has been overruled, still counsel are seriously contending that the judgment of the Court of Appeals is a nullity, because it turns out that the appeal was prayed from the Clerk of the Court of Appeals on the sixtieth day after the rendition of the judgment instead of the sixty-first. This, then, is the first important change I would suggest in our statutes, to-wit: That parties be allowed to pray an appeal from the Clerk of the Court of Appeals even during the term at which the judgment is rendered. This right is one which was very rarely exercised under the old code, and would be very rarely exercised now; but when necessary it is of very great importance. To be sure, process of mandamus from the Court of Appeals to lower courts may be asked, but the filing of a mandamus petition against the judge to compel him to grant an appeal is not desirable.

As to the jurisdiction of the Court of Appeals, I suppose it is out of the question to have the amount as to money judgments reduced; but certainly there ought to be uniformity throughout the State in the construction of statutes and of the Constitution. It is inexpedient that in one district a statute should be held to have one meaning and in another district, or in another court of the same district, it should be held to have another meaning. Our exemption laws have been held by some judges to have one meaning and by others to have another. The questions of the $50.00 exemption and the $40.00 exemption have been differently decided by different judges even in the same circuit, and yet the matter could not get to the Court of Appeals. It seems to me that

the remedy for all this is a provision that from a judgment of the Circuit Court, irrespective of amount, an appeal should be granted to the Court of Appeals if there be involved the construction or the validity of a statute or the construction of the Constitution, no reversal to be made in civil cases where less than $200.00 is involved, except for error as to such validity or construction.

The Sunday law, for example, has been held unconstitutional in one of our circuits as being special legislation. The question involved is one of very great importance; it concerns the manner of life of a whole community. There should be uniformity of decision on this subject, and an appeal ought to lie to the Court of Appeals, although the amount of the fine that can be imposed is only $50.00. So I understand different Circuit Courts have ruled differently as to whether progressive euchre parties come within the statute against gaming. These are but illustrations. The general proposition seems to be well founded that there should be uniformity of construction of statutes and of the Constitution, and the same can be obtained in but one way, to-wit, an appeal to the Court of Appeals. The expense of appeals has been materially diminished by the Code of 1877, which provides for the carrying up of a partial transcript; but the benefits of this provision have been much impaired by the ruling of our Court of Appeals that the judgment of the court below will be presumed to be right unless the record shows the contrary; and therefore that if the partial transcript shows the existence of a paper which might have sustained a judgment, and which is not part of the transcript, the judgment will be presumed to be right. The effect of this ruling is that appellant takes a partial transcript at his peril; hence many papers are copied which are not necessary for the appeal. It seems to me that the ends of justice would be well subserved by a provision to the effect that if a

partial transcript be taken pursuant to the provisions of the Code, and if the record does not sustain the judgment appealed from, there shall be no presumption that the judgment would be sustained by the record including the omitted parts.

One great source of expense in appeals is the copying of the evidence. Much has been done to diminish this evil by allowing a stenographer's transcript of the oral testimony to be used on the appeal. It seems to me to be advisable that there be an amendment to the Code providing that depositions may be taken up without being copied. If papers are required to be filed flat, as is now the case in this circuit, I can see no reason why they should not be incorporated in the transcript, and why they should not be treated as a stenographer's transcript would be treated.

One of the main sources of expense at present consists of copies of the record charged for by the Clerk of the Court of Appeals. It has been ruled by the Court of Appeals under our present statutes that the clerk may allow counsel to withdraw the record for inspection and may thereupon charge for a copy of the record as if one were actually made. Counsel has the right to examine the record in the Clerk's office, but if counsel take the record to the hotel to examine at night, the clerk charges the record to counsel, and the cost of a copy is taxed in the bill of costs. This was not the case when I came to the bar, and it does not seem to me reasonable now. The matter, however, has been repeatedly before our Court of Appeals, and the construction of the statute in this respect is *res adjudicata.* I suggest that a change in this respect be made by statute, and that the clerk be not permitted to charge for a copy of the record where none is made.

As to delay in appeals, I find it much more difficult to make suggestions. We all realize that the present judges of

the Court of Appeals are doing good work toward clearing off the docket, and that the length of time which a case on the average remains under submission now is less than it was a very few years ago. For awhile the court fell very far behind its docket; it is now catching up. One great occasion of this improvement is the rule adopted by the Court of Appeals that an oral hearing shall not be a matter of right, but it shall be granted upon grounds shown. It became customary for awhile for counsel to ask an oral hearing simply to gain time to prepare briefs, and thus cases were continued that ought not to have been continued. That evil has now been done away with.

Is further improvement possible? I think the suggestions above made in reference to partial transcripts if carried out will render a speedy decision of many appeals practicable. In this connection it must be remembered that Kentucky (unlike many other States) allows judgments to be reversed in the event that the verdict is not sustained by sufficient evidence; and I presume that none of us would desire to have the law in this respect changed. In consequence of this state of things work is thrown upon our Court of Appeals which is not ordinarily thrown upon Appellate Courts. It may be that the plan of making abstracts of the record now in use in other States will be available to diminish the labor of the judges of the Court of Appeals in finding out the questions really at issue and the parts of the record relevant to same. If, however, abstracts should be required, the change ought to be made by statute and not by rule of court. It is a matter that should not be decided hastily. The bar can do a great deal to assist the judges in the decision of cases. I have no doubt that by careful attention on the part of the bar improvements in the mode of preparing briefs and treating records will facilitate the labors of the Court of Appeals and will shorten the average period for a

case to remain under submission. It must be remembered that under the present Constitution a great deal of work is thrown upon the courts which used to devolve upon the Legislature. New questions constantly come up for decision which could not have arisen under previous constitutions. The people look to the courts to lay down the rules of civil conduct which are to govern them, and while we all aver continually that it is the business of courts not to make the law, but simply to declare the law, we all in practice rely more and more upon the decision of courts as to what the law is. This tendency is growing continually, and by reason of this tendency it is the more important that there should be ready, cheap and speedy access to the Court of Appeals, to the end that there may be uniformity of rules in all important matters throughout the Commonwealth.

THE PRESIDENT: The next paper will be read by Mr. Trabue and as the subject is germane to the subject of the paper read by Mr. Seymour, the two can be discussed after Mr. Trabue has finished reading his paper.

Mr. Trabue, after suggesting a query as to the future of the lawyer in these days of consolidation of great business enterprises and corporations, said that it was certain that business men would see even greater necessity for the lawyer's services as the value of their enterprises grew, and that in civil practice the tendency would be toward requiring accurate work in preparation of legal papers, and certainly and promptness in trials in courts. That no such certainty would be attainable without an efficient judiciary, for however able, learned and industrious might be the attorney, his labors would be in vain without a judiciary able to comprehend, and with time for proper consideration. That with the deterioration of the judiciary the demand for best legal

talent decreased and for the shyster increased, and accordingly the shyster's methods grew in favor. That practice became a speculation rather than a science, and inevitably the entire administration of justice grew into disrepute, and to be avoided by anyone who could compromise his case and escape the court. That, in short, the administration of the law failed of its purpose. Wherefore, he concluded that no people could afford to trammel their judiciary with unnecessary labor, or otherwise impair its efficiency.

That to be efficient the judiciary must be composed of proper material and have time and facilities for proper performance of their duties. That the bar must supply the material for the bench, which suggested a higher standard of admission to the bar. That the present standard was due not to inferiority of our population, but to the laxity of our methods of selection. That while almost anyone might obtain admission to the Kentucky Bar, in at least one State out of 311 applicants only 186 were licensed in 1899. That among the rejected were men holding degrees from such schools as Harvard. That our bar could not hope to cope with a bar so selected; nor our bench with the bench selected from such a bar. That we have some excellent judges, and would have under any system, but that we could not defy the laws of affairs, but must recognize their truths or be left in the race. That our courts now controlling admission to the bar were anxious to surrender it, having no time for the performance of the duty of examination.

That the bar's importance to the bench consisted as well in assisting the bench in practice as in affording material for the judges. That the bench required an able, industrious and above all, high-toned bar. That no effective way to improve the bar's morals existed. That discipline was a poor remedy. That high legal education was the only remedy. That a lawyer incompetent must compete with compe-

tent lawyers by indirection. That he is driven to a shyster's tricks in self-defense, and substitutes chicanery for proficiency. That increase in the number of shysters increases their influence on the practice and with the courts.

That proper practice is only less important to the bench than proper legal material. That if we had more judges at Frankfort, and if each were abler than any found in any other court, they would be inadequate to proper performance of their duties under present practice. That the desire to clear its docket naturally tempts the court to slight interests nearest the hearts of litigants. That the labor required is impossible of performance. That relief is indispensable.

That the remedy must be curtailment of work or additional facilities for performing it. That either the jurisdictional amount must be raised or the labors in each case lightened. That the latter is possible only by affording additional facilities for labor.

That to raise the limit of appeal simply suggests a habit of raising the limit and is cowardly expedient. That the real remedy is that adopted in a large majority of States and territories, viz.: To require the lawyer to do the work now thrown on our overworked judges. That this would surely meet the court's approval, and ought to meet the lawyer's unless he be lazy or inefficient. That the lawyer able and willing to do his duty is apt to have business of such importance as to make him appreciate the necessity for an efficient judiciary. That the lawyer too lazy to perform necessary labor, although appreciating its necessity, is hopeless, and that the lawer inefficient has no business at the bar. That the safety of men's estates requires efficient lawyers as much as that of their bodies requires efficient physicians. That the condition of the court alone must be considered in this question, and we must either meet the court's needs or be

reconciled to our court falling below the scale of excellence in other States.

That the remedy is that adopted by the concurrent wisdom of so many States, *to-wit, printed abstract of record and printed briefs.* That in 1897, out of forty-four States, in only eleven was the record or brief not required printed, and even in some of those the court might require both printed. That in the Supreme Court, the Court of Appeals for District of Columbia, Court of Claims, U. S. Circuit Court of Appeals, and twenty-three State courts the records and arguments were required printed, the records on some States consisting in an abstract. That even in New Mexico, Arizona and North and South Dakota printing is required.

That in no other State found is the lower court's record copied *in extenso* and dumped upon the Appellate Court without any explanation except an index. That such explanation is sometimes not even contained in the brief. That a cart-load of account books is often freighted to Frankfort for the delectation of the judges.

That the true plan would require appellant's attorney to carefully make an abstract of the record, exhibiting sufficient thereof to enable the court to correctly decide the case, and appellee's attorney to add anything necessary to show his side of the case, so that everything deemed by either side necessary to a determination of the appeal would be contained in the abstract.

That the judges might then devote to the real questions involved the time now required to examine superfluous and cumbersome matter, and could read printed abstracts and briefs with far greater facility and in much less time than written matter. That without some such relief our court must labor in vain to get rid of accumulated cases, and must stumble on under its burden without hope of resurrection. That thus handicapped it can not keep pace with other

courts, no matter what the material that might compose its bench.

That as to the objections; the expense of printing is only illusory. That printing could be obtained cheaper by letting the appellate clerk contract for it. That dispensing with the transcript would probably offset the expense of printing. That the transcript could be printed from original papers, *as is done in Ohio.*

That each judge and each attorney would have printed copies of record and briefs, and that this is really indispensable for proper preparation and understanding of any case. That without it only one Appellate Judge can handle a case, so that on the vital point of examination there is one Appellate Judge against a Circuit Judge. That at present the original transcript is sent to any lawyer in Kentucky requesting it, and a copy charged against the unsuccessful litigant. That his opponent visiting Frankfort to save the cost of a transcript to his client ascertains that the transcript is in his neighbor's office at home, and that sometimes it remains there until returned under a rule or attachment. That the shame upon us is that we should have so long endured the ill-treatment of our court while States so young as Iowa had relief a quarter of a century ago.

Mr. Trabue congratulated the bar upon formation of a Bar Association, saying that without co-operation individual lawyers could accomplish nothing, and that all other professions and callings were combining to obtain the advantages of co-operation.

Concerning the working of the proposed plan in other States, he read from judges and lawyers as follows:

From an eminent judge that the present rules in Wisconsin are in Volume 87, and that the printed abstract is satisfactory to the bar, not unduly burdensome to litigants, and the court saved endless labor in reaching the vital points in

controversy. That "without the abridgement in the printed case, at least, it would seem impossible for the court to dispose of its calendars."

Another judge says: "Our rules work so well that we finish and dispose of every case on the docket of each term of court."

Another says: "I take pleasure in stating that the rule adopted by the Supreme Court of Missouri, requiring abstracts of the record and briefs of counsel to be printed, greatly facilitates disposition of cases in that tribunal, and tends to secure correct decisions," etc.

Mr. Trabue said that such responses were obtained to inquiries made by a committee of lawyers several years ago, desiring to formulate a plan for relief of our appellate court.

In conclusion Mr. Trabue urged the formulation, *in an Act of the Legislature,* of rules which were proposed several years ago to the appellate court for adoption, but which the court hesitated to adopt without legislative sanction. The rules are as follows:

RULES.

XVI. A party who, either by directing a clerk to copy the entire record, or by filing a schedule, requires a clerk in making a transcript for appeal to copy immaterial parts of the record, shall pay the costs resulting therefrom, to be adjudged by this court upon or without motion; and in this connection the attention of the bar is called to the fact that it is not material to copy orders setting a case for a day for trial, or postponing or remanding the same, unless some point is to be made in this court upon which such orders have a bearing.

XVII. The caption of the cause having been given at the beginning of the transcript, it shall not be necessary,

where no point is made upon the same, to copy the captions of pleadings, motions, orders, or other proceedings, or verifications of pleadings, or official certificates to depositions, deeds or other papers.

But, in case of pleadings or other proceedings in court, the copy of the same shall be preceded by a caption stating as briefly as possible its character, such as "Answer," or "Amended Answer," or in case there be several parties, and the pleading is only as to part of them, then such caption as "Answer of John Smith, etc." or "Exceptions to Depositions," "Exceptions to Commissioner's Report," Judgment, etc."

No caption need be given to mere orders or motions, except a judgment or a motion for a new trial, in which event the caption shall simply be "Judgment," or "Motion for New Trial."

If it be material to show the date of an official certificate, but no point is made as to the certificate otherwise, it shall be competent and sufficient to state such date in the briefest possible form. Thus, in case of a deed, the copy of the deed may be followed by the words, on a separate line, "Acknowledged January 1, 1800," or "Acknowledged and Recorded January 1, 1800," or, if acknowledged by different parties at different dates, then such words as "Acknowledged by John Smith, January 1, 1800, and by Thomas Jones, January 5, 1800;" or in case of affidavits or depositions, such words as "Certificate dated January 1, 1890," etc.

The attention of the bar is also called to the fact that, by filing an agreed statement for the purpose of an appeal, the effect of long documents, such as depositions, exhibits, pleadings subsequent to the petition, etc., may often be very briefly stated, and thereby great costs in copying, and labor in reading, a record may be saved.

In making transcripts of records the clerks of the several

courts will be governed by the foregoing rule, and will copy no captions or certificates such as are indicated above, unless directed to do so by a schedule filed, but will insert brief descriptive captions as above described.

PRINTED ABSTRACTS.

XVIII. In all civil cases the party bringing a cause into this court shall furnish a complete abstract or abridgement of the record in the form hereinafter prescribed, and shall cause such abstract to be printed in small pica type, 24 pica ems to a line, 35 lines to a page, leaded with 4-to-pica leads, with an index, and a suitable cover containing the title of the court and style of the case, and the court from which the case is brought into this court; the size of pages to be 9¼ by 6¼ inches; which printed abstract shall be bound in book or pamphlet form.

Within fifteen days after the beginning of the first term subsequent to the filing of the record in the clerk's office of this court, there shall be filed with the clerk of this court twelve copies of such printed abstract, of which copies one shall be delivered by the clerk to the offical reporter, and one to each judge sitting in the case.

And within the time above mentioned at least two copies of such printed abstract shall be furnished to the opposing counsel.

XIX. Abstracts of records shall be made substantially in the following form:

Court of Appeals of Kentucky.

JANUARY TERM, 1890.

JOHN DOE,.. . *Appellant,*
VS.
RICHARD ROE, . *Appellee.*

} Appellant's Abstract of Record

APPEAL FROM THE JUDGMENT OF THE HARDIN CIRCUIT COURT.

A. B. for the Appellant.
C. D. for the Appellee.

On the ..... day of ..... 18...., the plaintiff filed in the Hardin Circuit Court a

PETITION

stating his cause of action as follows:

[Set out all of the petition necessary to an understanding of the questions to be presented to this court, and no more. In setting out exhibits, omit all merely formal irrelevant parts. Thus, for example, if the exhibit be a deed or a mortgage and no question is raised as to the acknowledgment, omit the acknowledgment.]

When the defendant has appeared, it is useless to encumber the record with the summons.

On the ..... day of ..... 18...., the defendant filed a

GENERAL DEMURRER

to said petition.

On ..... 18...., the same was overruled (or sustained as the case may be) and exception reserved; the court filing the following

OPINION.

[Of course if no written opinion be filed, the abstract will simply show the order upon the demurrer.]

On ..... 18.... defendant filed his

ANSWER

setting up the following defenses:

[Here set out the defenses, omitting all formal parts. If motions or demurrers are interposed to this pleading, proceed as directed with reference to the petition.]

Frame the record so that it will properly present all questions to be reviewed and raised before issue is joined.

When the abstract shows issue joined, proceed in

COMMON LAW CASES

as follows:

On ..... 18...., said cause was tried by jury (or the court as the case may be), and on the trial the following proceedings were had:

[Here set out so much of the bill of exceptions, including so much of the transcript of evidence, as is necessary to show the rulings of the court to which exceptions were taken during the progress of the trial. And if it be contended that the verdict, or judgment is not sustained by sufficient evidence, then set out the whole evidence, not by copying the same literally, but by condensing it so as to present the material parts thereof clearly and concisely.]

PLAINTIFF'S INSTRUCTIONS REFUSED.

After the evidence was concluded plaintiff asked the court for the following instructions, each of which the court refused:

[Here set out in full the instructions asked by plaintiff and refused; and the objections and exceptions of the parties thereto.]

DEFENDANT'S INSTRUCTIONS REFUSED.

Defendant asked for the following instructions, each of which was refused:

[Here set out in full the instructions asked by defendant and refused, and the objections and exceptions thereto.]

INSTRUCTIONS BY THE COURT.

The court gave to the jury the following instructions:

[Here set out in full the instructions given by the court, whether of its own motion, or on the motion of the plaintiff or defendant, or both, and also show by whom asked, if by

any one, and any objections or exceptions that may have been to any instructions, or the court's rulings.]

VERDICT.

On ..... 18...., the jury returned the following verdict:

[Here set out the verdict.]

Whereupon one ..... 18...., the court entered the following

JUDGMENT.

[Here set out the judgment.]

On ..... 18 ...., plaintiff entered a

MOTION FOR A NEW TRIAL.

and filed written grounds therefor, which are as follows:

[Here set out the grounds for the motion for a new trial.]

On ..... 18...., the court overruled said motion (or sustained the same, as the case may be), to which plaintiff (or defendant) at the time excepted, and prayed an appeal to the Court of Appeals, which was granted. And time was given until ..... to prepare and file a

BILL OF EXCEPTIONS,

which was filed on ..... 18....; and the substance of which has been heretofore given herein.

IN EQUITABLE ACTIONS,

After the abstract shows issue joined in equity cases, then state the evidence bearing upon the issues joined in as brief and condensed a form as is consistent with clearness and fairness; stating the substance of the testimony of each witness, and the substance of documentary evidence, in the order in which the same are found in the transcript, and without attempting to group the evidence of different witnesses on the various points at issue. The name of each new witness mentioned should be printed in the middle of a line to itself in the form of a caption. And in giving the sustance of documents, effort should be made by use of brief, appropriate captions to keep them separate from each other, that is, to avoid confusion as to where one ends and another begins.

Having stated the evidence, then proceed as follows:

On ..... 18.... the court delivered a written

OPINION.

[Here give the full text of the opinion.]

And thereupon on ..... 18.... entered the following

JUDGMENT.

[Here set out the judgment in full.]

GENERAL DESIGN.

The foregoing outline is presented for the purpose of indicating the character of the abstract contemplated by the rule, which, like all rules, is to be substantially complied

with. Of course, no formula can be laid down applicable to all cases. The rule to be observed in abstracting a case is: Preserve everything material to the questions to be decided, and omit everything else.

XX. If the appellee's counsel shall deem the appellant's abstract imperfect or unfair, he may, within fifteen days after the receipt of the same, deliver to the appellant's counsel two printed copies, and to the clerk of the court twelve printed copies, of such further or additional abstract as he shall deem necessary to a full understanding of the questions presented to this court for decision, which it shall be the duty of the clerk to distribute as provided in Rule XVIII.

XXI. Time for filing abstracts may be extended by the court.

XXII. The cost of printing the foregoing abstracts shall be taxed as part of the costs of the respective parties printing the same.

THE PRESIDENT: The subject-matter of those two papers is now open for discussion.

MR. JAMES P. HELM: The subject of the papers is one in which I have felt a very considerable interest for a long time. When I go to the Supreme Court of the United States or to the Circuit Court of Appeal—in other words, when I mingle with lawyers or judges who are in the habit of dealing with printed records, it is a matter of constant surprise to them that we are still plodding along in the old way of manuscript or typewritten records, and I think we may as well make up our minds that until there is some reform in this respect we are asking too much of our Court of Appeals when we expect their opinions to attain the same high standard as do the opinions of the courts which have the benefit of printed records. They are very much more handicapped

than the courts of other States. We know that they have to take records containing thousands of pages and read through them to find out what is in them, and when they do that they are so weary of that case and so worn with their physical work, and it is such an effort to remember what is in the record, that you can not expect from them a very clear-cut opinion. I have in my mind a record in the Court of Appeals containing twelve volumes, averaging 250 to 300 pages to the volume, and in my opinion counsel in that case could have agreed upon an abstract which would not have contained over 100 printed pages. In that case there are 200 pages of pleadings, and I think a statement of what is shown in the pleadings could be made in ten pages. If we could induce the courts to adopt the abstract idea, which so many States have adopted, of stating briefly the issues, and then only such evidence as bars upon those issues, having the counsel for appellant do that, and then allowing the counsel for appellee the right to supplement the statement and then have it printed, it would result in diminishing our records fully 75 per cent. I believe it is entirely feasible. It does devolve a good deal of labor upon counsel, but counsel has that labor sooner or later in some way or other if he prepares his case properly.

What Mr. Seymour said on the subject of decisions of the Court of Appeals on partial records strikes at the root of the matter. Nobody thought when schedules were allowed that the court would ever fail to conclude that the record thus made up was, for the purpose of that appeal, the whole record. When counsel for appellant selects his parts of the record and counsel for appellee supplements it, the Court of Appeals ought to hold that that is the complete record. It is asking too much of a lawyer to take the responsibility of selecting the parts of the record he wants, if the court has the power to say "there is another part that has been omit-

ted, and for aught we may know that might have justified the decision of the court below, and therefore we affirm the case." So in any plan that we agree upon in making abstracts, it ought to be an essential part of the plan that when the record is thus made up it is conclusively presumed to be the complete record for the purposes of that appeal. You all remember the rule in the Supreme Court for diminishing records—I think it is the Ninth Rule. There counsel for the plaintiff in error may file with the Clerk a statement in writing indicating the parts of the record which he thinks are essential to the determination of the case, which the Clerk sends to the defendant in error, and if that party does not within the time named in the rule indicate other parts of the record, the court will take the case upon that record; and although under that rule if the court upon an examination of the record reaches the conclusion that necessary parts of the record have been omitted, it has the power to order the incorporation of those parts or dismiss the appeal. I don't think they have ever exercised that power. So it seems to me if we can not get our Court of Appeals to adopt the abstract idea, it might be well to get them to adopt a rule something like the Ninth Supreme Court Rule for the diminution of records.

There is no gainsaying the fact that if records are printed and each judge examines the record, it will inevitably lead to more satisfactory decisions. None of us who have been in the Supreme Court and argued cases there but remember that members of that court constantly, when you are referring to certain facts, interrupt and say: "From what page are you reading?" And they turn and read that particular part of the record in the connection in which you are arguing. Now, how different in our Court of Appeals. Here is a single great, big record, and when you read this or that from it the court can't follow you, and, as it is generally

eight or nine or ten months before that case is sent out, the discussion on the facts is of no value. The court has no inducement to listen to your discussion or follow very closely your argument, especially when you are arguing the evidence in the case, for the court knows it can't recollect nine months from that time anything that is said on the facts. If we had the abstract system, with a printed record, the court would follow you, each member with a copy. I venture to suggest that if we can get our Court of Appeals to adopt the plan outlined by the Louisville Bar Association and let us prepare these abstracts, it will soon be found that the labors of the court will be enormously lightened, and this will result in better considered judgments. If we can not succeed in getting that system, the best thing we can do is to adopt some means by which we can pay the Clerk for superintending the printing, as the Supreme Court Clerk does.

MR. MCDERMOTT: Just a word in addition to what Mr. Helm has said. I have always thought we should abolish the whole fee system. I think the Clerk of the Court of Appeals and all the Circuit Clerks should be paid salaries. I think a clerk who has been elected should be paid a good salary. I don't want to be unjust to the clerk, but I don't think the clerk should be compelled to collect money from the litigants. With the clerk on a good salary not depending on fees, this abstract could be made, and, if necessary, the original papers sent up, and a great saving of expense and labor to litigants, lawyers and judges secured.

MR. WOODSON: When we come to consider the matter, it is a little surprising how slowly we get at the business of law reform such as has been suggested this evening. A long time ago Dean Swift with his admirable irony suggested two objections to the law. One was the law precedent, which simply meant that whatever has been done may be done again; the other was the circumlocution by which we under-

take to arrive at questions in court. He said if a man undertakes to sue me for a coat he doesn't come out and sue me for the coat, but begins to prove all sorts of details that have no earthly bearing; and that has been the course more or less ever since. And the proposition now is simply an objection to circumlocution. The two very admirable papers that have been read here this evening embody the common sense of the situation. To illustrate: Here is an estate, and they fall out about the division of the property, and instead of saying in so many words that the ancestors devised that estate by will, there is copied into the record the whole will, thirty or forty pages. If the stockholders of a corporation fall out, the case comes to the Court of Appeals; instead of the simple statement that the company was incorporated for certain purposes, the entire articles of incorporation are copied at full length, when there is no issue presented growing out of them. And so it is with other things. None of those things ought to be copied unless there is some question raised on them. It seems to me absolutely superfluous, and the wonder is that the thing has been permitted so long. I think if this Bar Association takes the matter up that we certainly can remedy the matter.

I know there is some trouble in endeavoring to secure too great brevity. I remember an instance of it. There was a lawyer arguing before the Court of Appeals, and he was exceedingly prolix, and one of the judges said to him, "You certainly ought to presume that the court knows some law," and he said: "That is the very point I got beat on in the court below, and I don't want to get beat twice on the same proposition."

I think the suggestion that the Clerks both of the Court of Appeals and of the Circuit Courts should be made salaried officers and not depend on fees, is another proper suggestion which, if adopted, will secure relief.

MR. STROTHER. We have had two very interesting papers and some valuable discussions of those papers, but all of that will amount to nothing unless something can be accomplished as a result of the discussion. I therefore move that these two papers by Mr. Seymour and Mr. Trabue be referred to the proper committee with directions to prepare a bill, using such of the suggestions as are approved.

MR. HELM: Do you think it wise to endeavor to secure a bill? I think it can be provided better by a rule of court.

MR. MCDERMOTT: Why not say by a bill or a rule of court?

MR. STROTHER: I will accept that.

The motion was seconded.

MR. WILSON: I desire in seconding the motion to venture a few remarks. I hope I may be pardoned for stating the few suggestions that occur to me. I believe there is no evil in our present system of jurisprudence that is more glaring than the difficulty attendant upon the prosecution of appeals. Now, if I may be permitted to part a little from the line of suggestion which has been brought out by Mr. Seymour, Mr. Trabue, Mr. Helm and others, I would say it seems to me the oral argument in the Court of Appeals has dwindled rather into insignificance, and rather unjustly so. But lawyers know that the oral argument and the decision are so far apart that it is doubtful whether any benefit can be had from an oral argument. It seems to me there is no way, either by condensation of the record or shortening the proof, in which a lawyer can better present his case than by an oral argument of the case. Every lawyer knows that when he is arguing a case orally before a judge who is giving him due

attention, that that judge will frequently put questions to the lawyer that touch the case vitally and which can be disposed of right then and there without the judge wading through endless records and endless proof. I believe reform should be secured in that line. If I understand it, the tendency of the Court of Appeals now is to cast the oral argument aside. I think we should endeavor to change this.

MR. GALLOWAY: Not intending to present any objection to the proposed system of printing records in the Court of Appeals, I would suggest this idea: That there is a difficulty in Kentucky in the way of a system that does not exist in the States above us, Illinois, Ohio, and Indiana, etc. In all those States there is considerable equality in the territory that composes the counties, and the counties are practically equally accessible by rail, have equal facilities in the preparation of cases. We know that nothing like this obtains in Kentucky, and the difficulty is to make a system that will work as well for all parts of our State. It seems to me we have an anomalous condition in Kentucky, and that is to a larger extent the reason why Kentucky is not alongside of Ohio and Illinois and these other States in the laying off and upbuilding of our State. Our conditions are so different. Why in my judicial district we have counties that have no railroad and no printing-offices. It may be important that this system be adopted, but I can not see how it can be.

It has been suggested that we have the record abstracted. Now, you go out into some of my counties and undertake to agree with a lawyer in getting up an abstract and you will have a sight harder task than the Court of Appeals will have in reading the full record.

MR. BASKIN: I think I can shed some light on this matter. I was on a committee which was appointed to get up

the memorial that was drawn and sent to the Court of Appeals some months since, and in that memorial we undertook to set forth all the States and Territories wherein the records are printed, and also those wherein the records are abstracted.

Now, as to counties having no printing offices; we all know that in places where printing does obtain the records are sent to reliable printers and the printing done without any hitch of any kind. If the Circuit Court of Appeals can have records in immensely important cases printed in Louisville, there is no reason why the courts out in the State couldn't have it done.

Now, as to not agreeing on abstracts, the Court of Appeals rules can provide this: That one side shall file its abstract, and if that is not satisfactory the other side can file its counter-abstract, and if they can not agree, the court can settle it.

MR. STRAUS: What do you think about the power of the Court of Appeals to regulate that.

MR. BASKIN: I have not the slightest doubt on earth about it. I would suggest as an amendment to the motion of Mr. Strother that the committee be directed to print and present to the Court of Appeals a memorial setting forth such statistics and facts as are desired and suggesting that the rules be changed so as to require a condensation and printing of the records.

MR. STROTHER: I shall have to decline to accept that. I think the matter should be left to the committee. I believe when the President appoints the committee it will be so constituted as to represent the sentiment of the meeting.

MR. BASKIN: You don't want a system put in operation unless it meets the approval of the majority of the bar?

MR. STROTHER: Certainly not.

MR. BASKIN: Then I suggest that your motion be amended by saying that the committee be authorized to do what I suggest. Will you accept that?

MR. HELM: It seems to me they do that anyway.

MR. STROTHER: Do you mean that they be authorized without being directed?

MR. BASKIN: Yes.

THE PRESIDENT: Will you please state what the motion would be then, as amended?

MR. BASKIN: The motion would be that the two papers of Mr. Trabue and Mr. Seymour be referred to the Committee on Law Reform, and that they be authorized, in view of these papers and such information as they can get, to draw a proper bill or rule of court to reach this matter in the most direct and best way.

MR. CROMWELL: I am greatly in favor of the system that has been mentioned being carried into effect by rule or statute, but it must appear to any gentleman who has had legislative experience that there are likely to be obstacles in the way of this reform. Some of them have been pointed out by Mr. Galloway, and there might come objection from the clerks that it would reduce their revenue.

It certainly would be a great thing to reduce the size of the records yearly sent to the Court of Appeals, and there is one thing that I would like at this early stage to call to the attention of this Association, and that is the manner in which the records of the Court of Appeals are preserved. I am reliably informed that there are from eight to twelve hun-

dred cases of valuable records in that building, which is not fire-proof and which has no protection, and this condition has existed for the last thirty years. These records have been furnished at great expense by litigants, and if they should be destroyed, it would require thousands and thousands of dollars to supply them. I think a committee should be appointed to take into consideration the question of protecting these valuable records for the litigants and lawyers of the State.

MR. GRAY: As was suggested by yourself upon your induction into office, there is no need of spreading out too much. From the various speeches I fear we are in danger of spreading considerable. The trouble with the attorneys generally is that they are always looking out for somebody besides themselves. They want reform, and they want it bad: at least they want it down here in Louisville; but they don't want it at the expense of the poor clerk. Well, all reforms hurt somebody. It is a general tendency to get into evil ways, and it necessarily hurts those who are in bad ways when the time for reform comes. Now the whole talk has been upon the subject of a curtailment of the extent of record. The first paper seemed to me to contain equally as good a suggestion and the more important principle, and that is that the subject is one that must be accomplished through the Legislature; it can not be accomplished by or through the courts alone. The inclination in these days is that when a lawyer has been elevated to the bench he thinks he is something superior to the balance of the lawyers. It seems to me one of the reforms that this committee ought to take charge of is that when the Judge of the lower court is disinclined to allow an appeal, that the party can go to the clerk and get the necessary record, ordering the whole or part of it, and take it to the Court of Appeals and perfect his appeal there.

Now so much for that. Now this is primarily a meeting for our own benefit, and I think it is time that we should become acquainted with each other. I believe it is the desire of each and every one of us to facilitate the administration of the law. Now, then, if in that desire we must lead somebody or other in the race, of course it must fall upon the poor clerk, because it seems to be a universal sentiment that there is no desire to hurt either the lawyers or the judges of the Court of Appeals.

Now as to whether the Court of Appeals has the power to act on this matter by rule. It seems to me it is a good deal harder and more circuitous to get the Court of Appeals to act by making rules than it would be to have an Act of the Legislature passed.

I don't anticipate the antagonisms from the lawyers that some of the gentlemen seem to. I think when the time comes the attorneys will get together, but I want to make this suggestion. These are times of great combinations—I won't say anything about trusts—I say great combinations. We are all like laborers, all working to accomplish what we desire. The suggestion is by one member that of we make these condensed printed records it will hurt the poor clerk. The clerk generally has to manage to take care of himself, and you can depend on his doing it. But if you are going to try to look out for everybody and get up some reforms that don't hurt anybody, you might as well save the time and stop right here. I am in favor of condensation, clerk or no clerk. I am for the lawyer first, last and all the time.

MR. MONTGOMERY: My friend is a man after my own heart. Now we are proposing to lighten the burdens of the Court of Appeals. I have always had some jealousy of the Court of Appeals, because I could not get to be a Judge of the Court of Appeals myself.

Now, some one said the United States Courts were thieves of jurisdiction. The Court of Appeals is just the reverse. They worked on the Legislature until they ran their jurisdiction up to $200. For twenty-five or thirty years the cases that I wanted to appeal most were these little ones, and when we were allowed to appeal on the smaller sums I noticed that the judges were a good deal more particular about their decisions. Those small cases are the ones that most urgently need appealing sometimes. Those are poor men's cases. I have always been a poor man's lawyer. Rich men didn't need me. I think if we haven't judges of the Court of Appeals enough to do the work, we ought to have more judges so as to allow us to have more appeals.

As to these abstracts they are talking about, it reminds me very much of a case down in the country where a man brought suit for a horse. Now I am not much posted on these rejoinders and surrejoinders and all those other things, but first there was a petition, then the answer, then the reply, then the rejoinder and then the surrejoinder and all those things, but anyhow, although the man brought suit for the horse, when they got to the judgment the judgment was for a yellow dog, and when you get to abstracting these cases I am afraid you will be just as far away from the original case.

But as to this objection about hurting the clerks; if the clerks can't make a living let them go to farming.

Now I don't know how it is about Louisville, but I know it is hard to make buckle and tongue meet out in the country. I tell you with a family of nine my most difficult arithmetic in the practice of law is to get beefsteak to go around.

A MEMBER: Will you kindly tell us which side you are on?

MR. MONTGOMERY: I don't believe in that abstracting.

MR. STRAUS: I move the previous question.

A vote being taken, the previous question was ordered and a further vote being taken, the motion of Mr. Strother as amended by Mr. Baskin was carried.

MR. CROMWELL: Now, as suggested awhile ago, I move that a committee of five from different parts of the State, with a Chairman who resides in Louisville, be appointed to consider means of protecting the records of the Court of Appeals.

A vote being taken, the motion was carried and a committee appointed as follows:

Judge Pirtle, of Louisville, Mr. Cromwell, of Frankfort, Governor Bryan of Covington, Judge Settle, of Bowling Green, and Mr. Helm, of Newport.

Out-of-town resolutions were presented by Mr. McDermott as follows:

At a meeting of the members of the Grant County Bar, held at the Courthouse in Williamstown, Kentucky, on Monday, the 18th day of November, 1901, Hon. A. G. DeJarnette was elected Chairman, and H. Clay White was elected Secretary. Hon. W. W. Dickerson, by request of the Chairman, addressed the members of the bar, stating the object of this meeting to be, to select delegates to attend a meeting of the members of the bar of the State of Kentucky to organize a State Bar Association, to meet in the city of Louisville, Kentucky, on Tuesday, November 19, 1901. On motion of W. W. Dickerson a committee of three members of the bar was selected to prepare resolutions and to select delegates to attend said bar meeting at Louisville, Kentucky, and thereupon the Chairman appointed Hon. W. W. Dickerson, Judge

C. C. Cram, and Judge J. H. Westover as members of said Committee, who retired and then reported to the meeting their resolutions, which were read and adopted, which resolutions are as follows:

We, your Committee appointed to draft resolutions expressive of the sentiments of the Grant County Bar in reference to organization of a local and State Bar Association, beg leave to report as follows:

Resolved, That it is the sense of the Grant County Bar that a State and Local Bar Association ought to be formed for the protection of the legal fraternity, the client, and for the betterment of the conditions of the practice of the State; that we send to the State meeting at Louisville, on Tuesday, November 19, 1901, as delegates from this bar, to represent our interests at the proposed State meeting, Capt. A. G. DeJarnette, the Dean of this bar, and M. D. Gray, and that this bar, in conjunction with the State Association, organize a permanent local association as soon as the State Association is perfected and Constitution and rules for the said organization can be had.

Resolved, That it is the opinion of this committee that the proposed Bar Association can be of great benefit and material aid to the commercial interest of this State by correcting inequalities in the law and by suggesting proper future legislation and modifications in existing laws, and thereby becoming a material aid in the development of the material and best interest of the State.

Respectfully,

W. W. DICKERSON,
C. C. CRAM,
J. H. WESTOVER.

On motion is was ordered that the Secretary of this meeting send a copy of the proceedings of this meeting to Hon.

Edward J. McDermott, Secretary of the Bar Association at Louisville, Ky., and to the Courier-Journal at Louisville, Ky., and to Williamstown Courier for publication.

On motion the meeting adjourned until next Saturday, November 23, 1901, at 2 o'clock P. M.

A. G. DEJARNETTE, *Chairman.*

H. CLAY WHITE, *Secretary.*

On motion of Mr. Pirtle, the communication was received and filed.

MR. MONTGOMERY: I want to offer a resolution that the Committee on Law Reform should try to get some law passed that if there is a decision below upon a demurrer which of itself would determine the matter, that can be taken to the Court of Appeals without waiting for a trial of the case.

The motion was lost for want of a second.

MR. THORNTON: Ought we not to have some arrangement about printing the Constitution?

JUDGE PIRTLE: That can be attended to under the general power vested in the committee.

MR. THORNTON: I move that the Executive Committee be directed to have the Constitution and list of committees distributed to the bar of the State.

MR. GALLOWAY: I would like to amend that by including the proceedings of the meeting.

MR. THORNTON: I have no objection to that if it is thought necessary.

MR. GALLOWAY: Then let it be that the committee can print such parts as they desire.

This was accepted, and the motion was carried.

On motion the meeting then adjourned and partook of a repast that was served in the rooms of the Louisville Bar Association.

CONSTITUTION.

NAME.

Article I. This Association shall be known as THE KENTUCKY STATE BAR ASSOCIATION.

OBJECT.

Article II. This Association is formed to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold integrity, honor and courtesy in the legal profession, to encourage thorough liberal legal education and cordial intercourse among members of the bar.

MEMBERSHIP.

Article III. The members of the bar attending this convention, November 19, 1901, from counties in which there is no local Bar Association, and members of local Bar Associations in attendance upon this convention, are hereby declared to be members of this Association, provided they shall, during the present session, pay the annual dues and sign the Constitution. Any member of the bar of good standing, residing or practicing in the State of Kentucky, may become a member of the Association upon nomination and vote, as hereinafter provided. All members of local Bar Associations, during the year ensuing from the 19th of November, 1901, shall become members of this Association upon paying the annual dues, and such members may sign the Constitution at any time within the year.

ELECTION OF MEMBERS.

Article IV. The nominations for membership shall be made by the Committee on Membership, and must be transmitted in writing to the President, and by him reported to the Association, and if any member demands a vote upon the names or any of those thus reported, the Association shall thereupon vote thereon by ballot. Several names may be voted upon the same ballot, and in such a case the placing of the word "no" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. One negative vote in every five shall suffice to defeat the election. No member of the bar residing in a county where there is a Bar Association shall become a member of this Association, unless he shall also be a member of the local Association.

OFFICERS.

Article V. The officers of the Association shall be a President, who shall be ineligible for a second term; one Vice-President for each Court of Appeals district represented in the Association; a Secretary, and a Treasurer. All of these shall be elected at the annual meeting and hold their office until the next annual meeting of the Association, and until their successors are elected.

COMMITTEES.

Article VI. There shall be an Executive Committee, which shall consist of the President, the last ex-President, the Secretary, and the Treasurer, all of whom shall be ex-officio members, together with five other members to be chosen by the Association; but no member shall be eligible to such

choice more than three years in succession, and the President, and in his absence the ex-President, shall be the Chairman of the committee.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of seven members each:

1. On membership.
2. On law reform.
3. On legal education and admissions to the bar.
4. On grievances.

A majority of those members of any committee who may be present at any meeting of the Association shall constitute a quorum of such committee for the purpose of such meeting.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each annual meeting of the Association, whose duty it shall be to report to the next annual meeting the names of all members who shall have in the meantime died, with such notices of them as shall in the discretion of the committee be deemed proper.

Every committee shall at each annual meeting report in writing a summary of its proceedings since its last annual report, together with any suggestions deemed suitable to its powers, duties or business.

COMMITTEE ON MEMBERSHIP.

Article VII. It shall be the duty of the Committee on Membership to receive and consider proposals for membership in this Association, and by an affirmative vote of four members to recommend to the Association persons duly proposed. They may make such regulations as they deem needful as to proposals for membership.

DUTY OF COMMITTEE ON LAW REFORM.

Article VIII. It shall be the duty of the Committee on Law Reform to take notice of all proposed changes in the law, and when this Bar Association is not in session, to take such action as they may deem best as to said proposed changes, and to endeavor to procure such changes in the law as it may deem advisable, either upon its own initiative or upon recommendation of a local Bar Association.

COMMITTEE ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR.

Article IX. It shall be the duty of the Committee on Legal Education and Admissions to the bar to examine and report what changes should be made in regard to legal education and admissions to the membership of the profession in the State of Kentucky.

COMMITTEE ON GRIEVANCES.

Article X. The Committee on Grievances shall receive the complaints which may be made in matters affecting the interests of the legal profession, the practice of the law and the administration of justice and report the same to the Association with such recommendations as it may deem advisable. The proceedings of this committee shall be deemed confidential and kept secret, except so far as reports of same shall necessarily and officially be made to the Association.

EXECUTIVE COMMITTEE.

Article XI. This committee shall manage the affairs of the Association, subject to the Constitution and By-Laws,

and shall be vested with the title to all of its property, and shall make by-laws, subject to amendment by the Association.

PRESIDENT.

Article XII. The President, or in his absence, one of the Vice-Presidents in the order of the appellate districts from which they are selected, shall preside at all meetings of the Association.

SECRETARY.

Article XIII. The Secretary shall keep a record of the proceedings, and shall conduct the correspondence of the Association, and perform all the usual duties of such office.

TREASURER.

Article XIV. The Treasurer shall collect, and by order of the Executive Committee disburse the funds of the Association, and keep a record of the accounts, which at all times shall be open to any member of the Executive Committee.

ANNUAL MEETINGS.

Article XV. The Association shall meet annually at such times and places as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

DUES.

Article XVI. The annual dues of the members shall be $3.00, payable yearly on or before the first day of the annual

meeting of the Association; and after each meeting of the Association the Treasurer shall notify each member in arrears of the amount due, and any member who shall remain in default until the close of the annual meeting next following such default shall be suspended and dropped from the rolls, and shall not be reinstated until the back dues are paid.

BY-LAWS.

Article XVII. By-Laws may be adopted at any annual meeting of the Association by a majority of the members present. It shall be the duty of the members of the Executive Committee to adopt suitable By-Laws, which shall be in force until rescinded by the Association.

AMENDMENTS.

Article XVIII. This Constitution may be altered or amended by the vote of a majority of the members present at any annual meeting.

BY-LAWS.

I. The order of exercises at the annual meeting shall be as follows:

1. Opening address of the President.
2. Nomination and election of members.
3. Reports of Secretary and Treasurer.
4. Reports of Executive Committee.
5. Reports of Standing Committees.
6. Nomination of officers.
7. Miscellaneous business.
8. Election of officers and the Executive Committee.

II. No person shall speak more than ten minutes at a time nor more than twice upon one subject.

III. At any meeting of the Association, members of the bar of any foreign country, or of any other State, may be admitted to the privileges of the floor during such meeting.

IV. The Executive Committee at its first meeting after each annual meeting shall select one person to make an address at the next annual meeting, and not to exceed five members of the Association to read papers.

V. The Executive Committee shall publish some days in advance of each annual meeting a statement of the person who is to deliver the address and the persons who are to read papers, and the subjects of each.

VI. All papers read before the Association shall be lodged with the Secretary.

VII. All addresses delivered at the annual meeting, and such of the proceedings thereof as are deemed important, may be printed as the Executive Committee may order.

VIII. After the reading of each paper an opportunity shall be given for discussion upon the topic of the paper.

IX. The President shall within thirty days after the annual meeting appoint all committees which he is authorized to appoint by the Constitution, and shall announce them to the Secretary, who shall promptly give notice to the persons appointed.

X. The terms of office of the members of the several committees appointed by the President shall commence immediately upon their appointment.

XI. Each committee shall elect its own officers, except as otherwise provided in the Constitution, whose term of office shall commence on their election and continue until the appointment of their successors.

XII. In addition to called meetings, the Standing Committees shall meet on the day preceding each annual meeting, at the place where the same is to be held, at such hour as the respective Chairman may designate.

XIII. Special meetings of any committee must be called by its Chairman, when he may deem it proper or when requested so to do by two members thereof. The time and place of such special meetings, when called as aforesaid, shall be appointed by the Chairman. Reasonable notice shall be given by the Chairman of the special meetings to each member by mail.

XIV. The Treasurer's accounts shall be examined and audited annually before its presentation to the Association by two members, to be appointed by the Chairman of the Executive Committee.

XV. The judges of the Court of Appeals of Kentucky, and of the several Circuit Courts of the State, and the judges of the United States Courts who are members of the Kentucky bar, are ex-officio members of this Association.

XVI. It shall be the duty of the Executive Committee, at least six weeks prior to the next ensuing annual meeting, to negotiate and complete all proper arrangements for reduced rates of travel for those attending; and through its Chairman, at least two weeks before the annual meeting, to advise the members of the Association by printed programs sent out to them.

XVII. All applications for membership shall be accompanied with the annual dues of the ensuing year, and upon default so to do such application shall be returned to such applicant by the Secretary of the Association or the Committee on Membership.

ROLL OF MEMBERS.

Ahlering, G. H., Newport.
Allen, Lafon, Louisville.
Anderson, W. G., Louisville.
Bailey, S. C., Newport.
Barker, Thomas A., Louisville.
Barret, Mason, Louisville.
Barrett, Alex. G., Louisville.
Baskin, John B., Louisville.
Beckley, P. C., Louisville.
Beckner, W. M., Winchester.
Bingham, R. W., Louisville.
Booth, Percy N., Louisville.
Brent, George A., Louisville.
Brandeis, Albert S., Louisville.
Briggs, George G., Louisville.
Brown, Thomas R., Catlettsburg.
Bruce, H. W., Louisville.
Bruce, Helm, Louisville.
Bryan, James W., Covington.
Buchanan, Lytle, Louisville.
Bugg, R. J., Bardwell.
Bullitt, Thomas W., Louisville.
Bullitt, Wm. M., Louisville.
Burnett, Henry, Louisville.
Burton, George L., Louisville.
Byrne, Wm. A., Covington.
Brown, John Mason, Louisville.
Campbell, James, Paducah.
Carroll, John D., Newcastle.
Clay, Buckner, Paris.
Cox, Attilla, Jr., Louisville.
Cooper, Hugh P., Lebanon.
Crabb, Wilson D., Louisville.
Cromwell, Wm., Frankfort.
Dallam, Clarence, Louisville.
Davis, W. O., Versailles.
Davies, W. W., Louisville.
Dickson, Emmet M., Paris.
Dixon, Wm. B., Louisville.
Dodd, J. L., Louisville.
Dodd, J. C., Louisville.
Doolan, John C., Louisville.
Eagles, Wm. B., Louisville.
Esslinger, John A., Louisville.
Farnsley, B. H., Louisville.
Field, William, Louisville.
Flexner, Bernard, Louisville.
Ford, James T., Louisville.
Galloway, John M., Bowling Green.
Galvin, John, Covington.
Gordon, Thomas R., Louisville.
Gordon, Robert, Louisville.
Graham, J. C., Leitchfield.
Gray, Richard H., Covington.
Green, Pinckney F., Louisville.
Grubbs, Charles S., Louisville.
Grubbs, Rodman, Louisville.
Harbeson, M. L., Covington.
Harris, W. O., Louisville.
Helm, Charles J., Newport.
Helm, James P., Louisville.
Helm, T. K., Louisville.
Hillsman, Wm. P., Louisville.
Hodge, John T., Newport.
Holmes, R. S., Covington.
Humphrey, A. P., Louisville.
Humphrey, E. P., Louisville.
Jackman, John S., Louisville.

Jarvis, William, Louisville.
Johnson, H. M., Louisville.
Johnson, Jep. C., Greenville.
Jolley, G. W., Owensboro.
Jouett, E. S., Winchester.
Joyes, Morton V., Louisville.
Kutzleb, Anton, Louisville.
Kaiser, E. F. W., Louisville.
Lindsay, C. M., Louisville.
Lindsey, D. W., Frankfort.
Mackoy, H. B., Covington.
Mackoy, W. H., Covington.
Miller, Richard W., Richmond.
Montgomery, Jas., Elizabethtown.
Morancy, Frank W., Louisville.
McCartney, W. P., Paducah.
McDermott, E. J., Louisville.
McDonald, E. L., Louisville.
McDonald, A. W., Louisville.
McDowell, R. A., Louisville.
McDowell, Charles, Danville.
McElroy, C. U., Bowling Green.
McLeod, Field, Versailles.
McQuown, Lewis, Bowling Green.
Muir, Upton W., Louisville.
Nelson, R. W., Newport.
Newman, Geo. A., Jr., Louisville.
O'Doherty, Matt., Louisville.
O'Meara, J. P., Elizabethtown.
Peckinpaugh, N. R., Louisville.
Pendleton, D. L., Winchester.
Pirtle, James S., Louisville.
Price, W. A., Covington.
Quarles, James, Louisville.
Ray, Charles T., Louisville.
Reed, J. D., Louisville.
Reed, W. M., Paducah.
Richards, A. E., Louisville.
Rouse, S. D., Covington.
Russell, John C., Louisville.
Rutledge, A. M., Louisville.
Sampson, J. R., Middlesboro.
Scott, W. M., Shelbyville.
Selligman, Alfred, Louisville.
Selligman, Joseph, Louisville.
Seymour, C. B., Louisville.
Shaw, W. McB., Covington.
Sherley, Swagar, Louisville.
Simmons, Robert D., Covington.
Smith Geo. Weissinger, Louisville.
Snively, Theo. C., Louisville.
Sprague, E. W., Louisville.
Strother, John C., Louisville.
Straus, F. P., Louisville.
Sullivan, J. A., Richmond.
Sullivan, J. H., Louisville.
Taylor, H. P., Hartford.
Theobald, Thomas D., Grayson.
Thornton, D. L., Versailles.
Thornton, R. A., Lexington.
Thum, W. W., Louisville.
Trabue, E. F., Louisville.
Tracy, Frank M., Covington.
Twyman, I. W., Hodgenville.
Walker, C. A. J., Covington.
Washington, George, Newport.
Wathen, Chapeze, Owensboro.
Watkins, H. A., Munfordsville.
Watts, J. R., Louisville.
Watts, W. W., Louisville.
Wehle, O. A., Louisville.
Willis, L. C., Shelbyville.
Willson, A. E., Louisville.
Wilson, S. M., Lexington.
Woodson, Isaac T., Louisville.
Wortham, J. S., Leitchfield.
Wright, James C., Newport.
Yeaman, L. R., Louisville.
Yeaman, Malcolm, Henderson.

HONORARY MEMBERS.

Court of Appeals and Circuit Judges, Honorary Members Ex-Officio.

Hon. B. L. D. Guffy, Frankfort.
Hon. George DuRelle, Frankfort.
Hon. Thos. H. Paynter, Frankfort.
Hon. James D. White, Frankfort.
Hon. A. R. Burnam, Frankfort.
Hon. John P. Hobson, Frankfort.
Hon. Ed. C. O'Rear, Frankfort.
Hon. J. E. Robbins, Mayfield.
Hon. L. D. Husbands, Paducah.
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Hon. Henry S. Barker, Louisville.
Hon. Emmett Field, Louisville.
Hon. Sterling B. Toney, Louisville.
Hon. John M. Harlan, Washington, D. C.
Hon. Walter Evans, Louisville.
Hon. A. M. J. Cochran, Maysville.

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